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PUERTO RICO STATUS REFERENDUM ACT

September 6, 1989.—Ordered to be printed

Mr. Johnston, from the Committee on Energy and Natural Resources, submitted the following

REPORT

together with

MINORITY VIEWS

[To accompany S. 712]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 712) to provide for a referendum on the political status of Puerto Rico, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That—

(1) the United States of America recognizes the principle of self-determination and other applicable principles of international law with respect to Puerto Rico; and

(2) the United States is committed to a process of consultation and negotiation with the people of Puerto Rico leading to a referendum on the issue of political status to be conducted in a fair and equitable manner.

Sec. 2. This Act may be cited as the "Puerto Rico Status Referendum Act".

TITLE I

SEC. 101. REFERENDUM.

(a) In General.—An islandwide referendum shall be held in Puerto Rico in which qualified voters of the Commonwealth of Puerto Rico shall be presented a choice of three status options for Puerto Rico. The options shall appear on the ballot as follows:

(1) Statehood as set forth in title II of the Puerto Rico Status Referendum Act;

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(2) Independence as set forth in title III of the Puerto Rico Status Referendum Act; and

(3) Commonwealth as set forth in title IV of the Puerto Rico Status Referendum Act.

(b) Date of Referendum.—The first referendum shall occur on June 4, 1991, or on a date during the summer of calendar year 1991 as may be mutually agreed by the three principal political parties of Puerto Rico.

(c) Returns of Referendum.—The returns of the referendum held under this Act shall be made to the Governor of Puerto Rico, who shall cause them to be canvassed in the manner provided by law for the canvass of votes cast in general elections for Federal office in the Commonwealth of Puerto Rico. If there is not a majority in favor of one of the three options, then there shall be, on August 6, 1991, or on a date during the summer of calendar year 1991 as may be mutually agreed by the three principal political parties, a runoff referendum between the two status options which had received the largest number of votes. Such referendum shall also include an option of "None of the Above". The Governor shall certify to the President and to the Congress of the United States that decision of the people of Puerto Rico which received a majority of the votes cast, if a majority is obtained.

(d) Applicable Election Laws.—The election laws of the Commonwealth of Puerto Rico for a general election for the election of a Federal officer, and as in effect on July 15, 1989, shall apply to the referendum held under this Act, except as otherwise specifically provided in this Act, and as necessarily modified to recognize that it is a referendum on status options. The Attorney General of the United States shall provide for adequate monitoring of the referendum by United States marshals.

(e) Judicial Review.—Any legal dispute or controversy arising out of this referendum shall be adjudicated in accordance with local laws and procedures, except that:

(1)(A) Any aggrieved person (including, without limitation, and political party), within sixty days after the certification by the Governor of the results of the referendum pursuant to title I, section 101(c), may institute an action to challenge the choice certified by the Governor on the basis that (1) an electoral irregularity or irregularities had occurred, and (2) that the irregularity or irregularities were so significant as to affect the outcome of the referendum and call into question the choice certified by the Governor.

(B) The three-judge court provided for in paragraph (2) shall have exclusive jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether the aggrieved shall have exhausted any administrative or other remedies provided by Federal law or the law of Puerto Rico.

(C) In any proceeding instituted pursuant to this paragraph of this subsection, if the court finds that there has been an electoral irregularity or irregularities so significant as to affect the outcome of the referendum and call into question the choice certified by the Governor, the court is empowered to grant appropriate relief, including nullification of the entire referendum, ordering a recount or recounts, or any other relief deemed appropriate to preserve the integrity of the electoral process.

(D) The Attorney General of the United States is empowered to intervene at the request of the court in any proceeding brought under this section in order to assist in the gathering and presentation of evidence. Any aggrieved person with a Federal constitutional or Federal statutory claim arising out of the same factual nexus as an action brought under this section may intervene in that action in a manner deemed timely by the court in its discretion. Failure of such an aggrieved person to timely intervene will result in foreclosure of that person's Federal constitutional or statutory claim.

(E) The court may give such weight as it deems appropriate to the determination of the Commonwealth Elections Commission, the courts of the Commonwealth and any other local authority or tribunal. The court is not required to provide de novo review of any and all claims of irregularities already determined by a local authority or tribunal, except as it deems necessary.

(2)(A) Any claim brought under the United States Constitution or a Federal statute, or any claim brought to challenge the result certified by the Governor, whether brought under this Act or under the law of the Commonwealth of Puerto Rico, shall be heard by a three-judge court which shall have exclusive jurisdiction over all such claims.

(B) The court shall receive evidence and hear argument, as it deems necessary. The provisions of section 2284(b)(3) of title 28, United States Code, shall apply to proceedings of the three-judge court. It shall be the duty of the Chief

Judge of the First Circuit Court of Appeals, with proper authorization by the Chief Justice of the United States under section 291(a) of title 28, United States Code, where necessary, to designate three judges, of whom at least one shall be a circuit judge and the remaining judge or judges shall be district court judges, to hear and determine any such claim. No judge resident in Puerto Rico shall be designated. Hearings of the three-judge court shall be conducted in Puerto Rico. An appeal from a final judgment of the three-judge court will lie to the Supreme Court of the United States by way of certiorari.

(f) IMPLEMENTATION.—The procedures for implementing the status option which has been certified by the Governor pursuant to subsection (c), shall go into effect on October 1, 1991, in accordance with the appropriate title of this Act.

(g) REFERENDUM INFORMATION OFFICER.—The President shall appoint, from a list provided by the three principal political parties of Puerto Rico, a Referendum Information Officer to be responsible for the translation and distribution of information and educational materials on the referendum. If the President is not satisfied with the qualifications of those persons on the initial list, the political parties shall submit such additional lists as may be necessary until an appointment is made. There are authorized to be appropriated such sums as may be necessary for the purposes of this subsection.

TITLE II—STATEHOOD

SEC. 201. PROCLAMATION.

Should statehood be certified, under section 101 of this Act, as having obtained a majority of the votes cast in the referendum, and upon the certification of the election of the officers required to be elected as provided in section 206 of this Act, the President shall issue his proclamation announcing the results of said election as so ascertained. Upon the issuance of said proclamation, the Commonwealth of Puerto Rico (hereinafter referred to also as "the State") shall be declared to be a State of the United States of America, and shall be declared admitted into the Union on an equal footing with the other States.

SEC. 202. CONSTITUTION.

The Constitution of the Commonwealth of Puerto Rico shall always be republican in form and shall not be repugnant to the Constitution of the United States and the principles of the Declaration of Independence. The Constitution adopted by a vote of the people of Puerto Rico in the election held on June 4, 1951, has been found by Congress to be republican in form and in conformity with the Constitution of the United States and the principles of the Declaration of Independence, and was accepted, ratified, and confirmed, through Public Law 447 of the Eighty-second Congress, March 3, 1952. The current Constitution of the Commonwealth of Puerto Rico as ratified by the people at the referendum held on June 4, 1951, is hereby accepted as the Constitution of the State.

SEC. 203. TERRITORY AND BOUNDARIES.

The State shall consist of all of the territory, together with the waters included in the seaward boundary, of the Commonwealth of Puerto Rico.

SEC. 204. STATE TITLE TO LANDS AND PROPERTY.

(a) The State and its political subdivisions shall have and retain title to all property, real and personal, which it currently holds, including, but not limited to, title to submerged lands heretofore granted to Puerto Rico.

(b) Any lands and other properties that, as of the date of admission of Puerto Rico into the Union, are set aside pursuant to law for the use of the United States under any (A) Act of Congress, (B) Executive order, (C) proclamation of the President, or (D) proclamation of the Governor of the Commonwealth of Puerto Rico, shall remain the property of the United States.

(c) Not later than five years after the date of admission of the Commonwealth of Puerto Rico as a State of the Union, each Federal agency having control over any land or property that is retained by the United States pursuant to this section shall submit a report to the President and the Congress concerning the continued need for such land or property. If the President determines that any such land or property, or portion thereof, or any interest therein, is no longer needed by the Federal Government, it shall be conveyed to the Commonwealth of Puerto Rico at no cost. This section does not authorize the transfer of any interest in the Caribbean National Forest or the San Juan Historic Site.

(d) All laws of the United States: (1) reserving to the United States the free use or enjoyment of property which vest in or is conveyed to the Commonwealth of Puerto

Rico or its political subdivisions pursuant to this section; or (2) reserving the right to alter, amend, or repeal laws relating to the ownership of such land; shall cease to be effective upon the conveyance of the land.

SEC. 205. CLAIMS TO FEDERAL LANDS AND PROPERTY.

(a) As a compact with the United States, the Commonwealth and its people recognize all rights and titles to any lands or other property not granted or conferred to the Commonwealth or its political subdivisions by or under the authority of this Act, the right or title to which is now held by the United States or subject to disposition by the United States.

(b)(1) Nothing contained in this Act shall recognize, deny, enlarge, impair, or otherwise affect any claim against the United States, and any such claim shall be governed by applicable laws of the United States.

(2) Nothing in this Act is intended or shall be construed as a finding, interpretation, or construction by the Congress that any applicable law authorizes, establishes, recognizes, or confirms the validity or invalidity of any such claim, and the determination of the applicability of any law to any such claim shall be unaffected by anything in this Act.

(c) No taxes shall be imposed by the State upon any lands or other property now owned or hereafter acquired by the United States.

SEC. 206. ELECTIONS AND ADMISSION REFERENDUM.

(a)(1) Within thirty days after the date of the certification of the results of the referendum under title I of this Act, the Governor of the Commonwealth of Puerto Rico shall issue a proclamation for the election of two United States Senators and for such number of United States Representatives in Congress as provided in this Act. The Governor of the Commonwealth shall certify the election of the Senators and Representatives in the manner required by law. The Senators and Representatives elected shall be entitled, upon the proclamation issued under section 201, to be admitted to seats in Congress and to all the rights and privileges of Senators and Representatives of the other States in the Congress of the United States. The Office of Resident Commissioner shall cease to exist upon the swearing in of the first Member of the House of Representatives so elected.

(2) In the first election of Senators from the State, the two senatorial offices shall be separately identified and designated, and no person may be a candidate for both offices. No such identification or designation of either of the two senatorial officers shall refer to or be taken to refer to the terms of such offices, or in any way impair the privilege of the Senate to determine the class to which each of the Senators elected shall be assigned.

(b)(1) Election returns shall be made and certified in such manner as provided by the electorial laws of Puerto Rico and in such a manner as the Commonwealth of Puerto Rico may prescribe. The Governor of the Commonwealth of Puerto Rico shall certify the results of such elections to the President of the United States.

(2) The new State of Puerto Rico shall be known as the Commonwealth of Puerto Rico.

(3) The individuals holding legislative, executive, and judicial offices of the Commonwealth of Puerto Rico, shall continue to discharge the duties of their respective offices, pending the issuance of the proclamation by the President of the United States and the admission of the Commonwealth of Puerto Rico as a State of the Union. The officers elected or appointed under the provisions of the constitution and laws of the Commonwealth shall thereupon proceed to exercise all the functions pertaining to their offices in, under, or by authority of the government of the State, as provided by the constitution and laws of the State.

SEC. 207. CONGRESSIONAL REPRESENTATION.

The Commonwealth of Puerto Rico upon its admission into the Union, and until the next reapportionment, shall be entitled to such additional Representatives as would be provided based upon the 1990 census. The permanent membership of the House of Representatives as now prescribed by law, is hereby increased from four hundred and thirty-five to four hundred and thirty-five plus the number of additional Representatives to which the Commonwealth of Puerto Rico is entitled.

SEC. 208. LAWS IN EFFECT.

(a) Upon admission of the Commonwealth of Puerto Rico into the Union, all of the local laws then in force in the Commonwealth of Puerto Rico shall be and continue in force and effect throughout the State, except as modified or changed by this Act, and shall be subject to repeal or amendment by the legislature of the Commonwealth. All of the laws of the United States shall have the same force and effect within the State as on the date immediately prior to the date of admission of the

State of Puerto Rico, except as otherwise provided in section 213 or elsewhere in this Act, and except for any provisions of law which provide for grants or other assistance to States or other units of local government or individuals and for which the Commonwealth of Puerto Rico or residents thereof are either excluded or whose eligibility is less than that provided on a uniform basis to other States. Any regulatory or other provision of law, other than grants and other assistance, which does not apply to Puerto Rico solely on the basis of particular geography, especially if such provision does not also apply to either Alaska or Hawaii, shall continue to not apply unless specifically extended by Congress.

(b) Within sixty days of the certification of a majority vote for statehood in the referendum, the President shall appoint a Commission on Federal Laws to survey the laws of the United States and to make recommendations to the United States Congress as to which laws of the United States not applicable to the Commonwealth of Puerto Rico should be made applicable and to what extent and in what manner, and which applicable laws should be made inapplicable and to what extent and in what manner. The Commission will consist of seven persons (at least four of whom will be residents of Puerto Rico who are and have been for at least five years domiciled continuously in Puerto Rico at the time of their appointment) who will be representative of the Federal, local, private and public interests in the applicability of laws of the United States to the Commonwealth of Puerto Rico. The Commission will make its final report by January 1, 1994, and before that time will make such interim reports and recommendations to the Congress as it considers appropriate. In formulating its recommendations the Commission will take into consideration the potential effect of each law on local conditions within the Commonwealth of Puerto Rico, the policies embodied in the law and the provisions and purposes of this title. The United States will bear the cost of the work of the Commission. There are hereby authorized to be appropriated such sums as may be necessary for the purposes of this subsection.

SEC. 209. CONTINUATION OF SUITS.

(a) No writ, action, indictment, cause, or proceeding pending in any court of the Commonwealth of Puerto Rico, shall abate by reason of the admission of the Commonwealth of Puerto Rico into the Union, but shall proceed within such appropriate State courts as are now established under the Constitution of the Commonwealth, or shall continue in the United States District Court for the District of Puerto Rico, as the nature of the case may require.

(b) All civil causes of action and all criminal offenses, which shall have arisen or been committed prior to the admission of the Commonwealth, but as to which no writ, action, indictment, or proceeding shall be pending at the date of such admission, shall be subject to prosecution in the appropriate State courts or in the United States District Court for the District of Puerto Rico in like manner, to the same extent, and with like right of appellate review, as if such State had been created and such State courts had been established prior to the accrual of such causes of action or the commission of such offenses. The admission of the State shall effect no change in the procedural or substantive laws governing causes of action and criminal offenses which shall have arisen or been committed, and any such criminal offenses as shall have been committed against the laws of the Commonwealth of Puerto Rico, shall be tried and punished by the appropriate courts of the State, and any such criminal offenses as shall have been committed against the laws of the United States shall be tried and punished in the United States District Court for the District of Puerto Rico.

SEC. 210. APPEALS.

Parties shall have the same rights of judicial review of final decisions of the United States District Court for the District of Puerto Rico or the Supreme Court of the Commonwealth of Puerto Rico, in any case finally decided prior to the admission of the State of Puerto Rico into the Union, whether or not an appeal therefrom shall have been perfected prior to such admission. The United States Court of Appeals for the First Circuit and the Supreme Court of the United States, shall have the same jurisdiction in such cases as by law provided prior to the admission of the State into the Union. Any mandate issued subsequent to the admission of the State, shall be to the United States District Court for the District of Puerto Rico or a court of the State, as appropriate. Parties shall have the same rights of appeal from and appellate review of all orders, judgments, and decrees of the United States District Court for the District of Puerto Rico and of the Supreme Court of Puerto Rico, in any case pending at the time of admission of the State into the Union, and the Supreme Court of the Commonwealth of Puerto Rico and the Supreme Court of the

United States shall have the same jurisdiction therein, as by law provided in any case arising subsequent to the admission of the State into the Union.

SEC. 211. MILITARY LANDS.

(a) Subject to subsection (b) and notwithstanding the admission of the Commonwealth of Puerto Rico into the Union, authority is reserved in the United States for the exercise by the Congress of the United States of the power of exclusive legislation, as provided by article I, section 8, clause 17, of the Constitution of the United States, in all cases whatsoever over such tracts or parcels of land as, immediately prior to the admission of the State, are controlled or owned by the United States and held for defense or Coast Guard purposes.

(b)(1) The Commonwealth of Puerto Rico shall always have the right to serve civil or criminal process within such tracts or parcels of land in suits or prosecutions for or on account of rights acquired, obligations incurred, or crimes committed within the State but outside of such tracts or parcels of land.

(2) The reservation of authority in the United States for the exercise by the Congress of the United States of the power of exclusive legislation over such lands shall not operate to prevent such lands from being a part of the Commonwealth of Puerto Rico, or to prevent the State from exercising over or upon such lands, concurrently with the Federal Government, any jurisdiction which it would have in the absence of such reservation of authority and which is consistent with the laws hereafter enacted by the Congress pursuant to such reservation or authority.

(3) The power of exclusive legislation shall vest and remain in the United States only so long as the particular tract or parcel of land involved is controlled or owned by the United States and used for defense or Coast Guard purposes, except that the United States shall continue to have sole and exclusive jurisdiction over such military installations as have been or may be determined to be critical areas as designated by the President of the United States or the Secretary of Defense.

SEC. 212. UNITED STATES NATIONALITY.

No provision of this title shall operate to confer United States nationality, to terminate nationality lawfully acquired, or to restore nationality terminated or lost under any law of the United States or under any treaty to which the United States is or was a party.

SEC. 213. ECONOMIC ADJUSTMENT.

The following provisions are enacted pursuant to Congress's power to admit new States, in recognition of the unique Federal tax provisions and programs affecting the Commonwealth of Puerto Rico which differ from those which applied to any other newly admitted State, and solely for the purposes of effecting a smooth and fair transition for the new State with a minimum of economic dislocation and to permit Federal agencies to assume or expand responsibilities for the administration and enforcement of Federal taxes and programs affecting the citizens residing in the new State.

(a) Application of Excise Taxes.—Effective on the date of admission of the State of Puerto Rico, all Federal excise taxes not heretofore applicable to the former Commonwealth of Puerto Rico are hereby extended to the State in the same manner as otherwise applicable in the several States.

(b) Application of Federal Laws.—Effective upon the certification of the results of the referendum, the heads of all Federal agencies are directed, as a priority matter, to examine the application of all programs within the jurisdiction of their respective agencies and, after consultation with the Governor of Puerto Rico, to recommend to the President, and to the Commission established under section 208(b), what changes, if any, and what additional administrative requirements, if any, will be needed to properly achieve the application of Federal laws in or to the new State with proper regard for the economic, geographic, and cultural circumstances of the new State.

(c) Transition for Certain Entitlements.—Except as otherwise provided in this subsection, effective on the date of admission of the State of Puerto Rico, all Federal programs which provide assistance to or on behalf of individuals, including, but not limited to, Aid to Families with Dependent Children, Medicaid, Medicare, Foster Care and Adoption Assistance, Social Services block grant, and the Food Stamp Program, shall apply in the Commonwealth of Puerto Rico as they apply within the several States: *Provided,* That, reimbursements under Medicare shall not exceed the actual cost of providing equivalent health care to the levels of care provided in the several contiguous States: *Provided further,* That the Secretary of Agriculture may, with the consent and agreement of the Governor of Puerto Rico continue to obligate the amount of funds for which Puerto Rico becomes eligible under the Food Stamp

Program as a block grant rather than as coupons as a pilot program until October 1, 1997, unless otherwise provided by Congress. Solely for the purposes of transition and as a matter of administrative necessity, to enable the Secretary of Health and Human Services to properly administer and provide benefits under the Supplemental Security Income Program, such program shall not commence until January 1, 1994. Until such date, the present Program for Aid to the Aged, Blind and Disabled is continued.

(d) TRANSITION FOR TAX.—The current tax treatment applicable to Puerto Rico is continued until January 1, 1994. Effective upon the certification of the results of the referendum, the Secretary of the Treasury shall consult with the Governor of Puerto Rico on the transition of the new State from a foreign tax jurisdiction. The Secretary is authorized, on a nonreimbursable basis, to provide such technical and other assistance as the Governor may require to reform the present revenue situation of Puerto Rico prior to January 1, 1994. The heads of all Federal agencies are directed to assist the Secretary and to provide such support as the Secretary may request. Effective January 1, 1994, the Federal internal revenue laws shall apply within the State of Puerto Rico as within the several States subject to such transitional rules or other provisions as Congress may have enacted prior to such date: *Provided*, That, the credit previously allowed under section 936 of the Internal Revenue Code with respect to income or investments from activity in Puerto Rico shall be reduced to 80 per centum for taxable years beginning in 1994, 60 per centum for taxable years beginning in 1995, 40 per centum for taxable years beginning in 1996, 20 per centum for taxable years beginning in 1997, and shall not be available with respect to such income or investments thereafter. Congress explicitly reserves authority to enact appropriate transitional rules regarding the implementation of the above credit reductions and the tax treatment of corporations with respect to which an election under Internal Revenue Code section 936 is in effect during the transition period, and the Secretary of the Treasury is authorized to promulgate and implement such regulations as are necessary therefore.

(e) STATEHOOD GRANTS AND ASSISTANCE.—

(1) The current payment provided by permanent indefinite appropriations of customs duties and equivalency payments on alcohol are hereby continued as a statehood grant.

(2) Until otherwise provided by law, all revenues derived from excise taxes which became applicable in the State pursuant to subsection (a) of this section, or any new excise taxes which become applicable thereafter, shall be deposited into the Treasury of Puerto Rico. As a compact with the State of Puerto Rico, no alteration in the transfer of funds under this paragraph and paragraph (1) above may be made until after October 1, 1998. The prohibition under section 7652(d)(2) of the Internal Revenue Code shall apply to such funds.

(3) As a transitional statehood grant to the new State to assist in maintenance of government services and to provide for maintenance of infrastructure, and to minimize the impact on local revenues from the transition from being a foreign tax jurisdiction, all revenues derived from the application of the Federal internal revenue laws in 1994 and 1995 within the State of Puerto Rico shall be deposited into the Treasury of Puerto Rico. The measure of the amount of income which is so derived will be determined according to such transitional rules or other provisions as Congress may have enacted prior to January 1, 1994.

TITLE III—INDEPENDENCE

SEC. 301. CONSTITUTIONAL CONVENTION.

(a) Should independence be certified, under section 101 of this Act, as having obtained a majority of the votes cast in the referendum, then the Legislative Assembly of the Commonwealth of Puerto Rico shall provide, within two months, for the election of delegates to a Constitutional Convention to serve until the proclamation of independence and to draft a Constitution for the Republic of Puerto Rico. The election of delegates must be held within six months after such referendum.

(b) Those qualified to vote in the election of delegates to the Constitutional Convention shall be (1) All persons born and residing in Puerto Rico; (2) all persons residing in Puerto Rico and one of whose parents was born in Puerto Rico; (3) all persons who at the time of the adoption of this Act shall have resided in Puerto Rico for a period of twenty years or more; (4) all persons who established their residence in Puerto Rico prior to attaining voting age and still reside in Puerto Rico; and (5) spouses of all persons included in (1), (2), (3), and (4) above.

(c) The laws of the Commonwealth of Puerto Rico relating to additional voter qualifications and the electoral process shall apply to this election.

(d) The Constitutional Convention shall meet within three months of the election of delegates at such time and place as the Legislative Assembly of the Commonwealth of Puerto Rico shall determine.

(e) The Constitutional Convention shall exercise jurisdiction over all of the territory of Puerto Rico ceded to the United States by Spain by virtue of the Treaty of Paris the tenth day of December 1898.

SEC. 302. CHARACTER OF THE CONSTITUTION.

(a) The Constitutional Convention mandated under the previous section shall formulate and draft a constitution establishing a republican form of government which shall guarantee the protection of fundamental human rights.

(b) The fundamental human rights guaranteed by the aforementioned constitution shall include such rights as due process and equal protection under the law, freedom of speech, press, assembly, association, and religion, as well as the rights of the accused, and economic, social, and cultural rights such as the right to education, adequate nutrition, health services, adequate housing, and work or employment and the right to own private property and to just compensation for the taking thereof.

(c) The property rights of the United States and Puerto Rico shall be promptly adjusted and settled, and all existing property rights of citizens or corporations of the United States shall be acknowledged, respected, and safeguarded to the same extent as property rights of citizens of Puerto Rico.

SEC. 303. RATIFICATION OF THE CONSTITUTION.

(a) The Constitution adopted by the Constitutional Convention shall be submitted to the people of Puerto Rico for its ratification or rejection.

(b) The Legislative Assembly of the Commonwealth of Puerto Rico shall call for a special election for such ratification or rejection, to be held within three months of the adoption of the Constitution by the Constitutional Convention.

(c) The special election providing all qualified voters the opportunity to cast a vote for or against the proposed Constitution shall be held in the manner prescribed by the Legislative Assembly of the Commonwealth of Puerto Rico. In the event such Constitution is not approved in the election, it shall be resubmitted to the convention for further consideration and resubmission to the voters as provided in this section.

(d) Those qualified to vote in this election shall be those possessing the qualifications established in section 301 of this title.

SEC. 304. ELECTION OF OFFICERS OF THE REPUBLIC.

(a) Within thirty days of the ratification of the Constitution as provided for by section 303 of this title, the Governor of the Commonwealth of Puerto Rico shall issue a proclamation calling for the election of such officers of the Republic of Puerto Rico as may be required by the ratified Constitution.

(b) The election of officers of the Republic shall be held not later than six months after the date of ratification of the Constitution.

(c) The aforesaid election shall be held in accordance with the procedures and requirements established in the Constitution of the Republic of Puerto Rico.

(d) The Governor of the Commonwealth of Puerto Rico shall certify the results of the election to the President of the United States.

SEC. 305. JOINT TRANSITION COMMISSION.

(a) A Joint Transition Commission shall be appointed in equal numbers by the President of the United States and the Presiding Officer of the Constitutional Convention of Puerto Rico.

(b) The Joint Transition Commission shall be responsible for expediting the orderly transfer of all functions currently exercised by the Government of the United States in Puerto Rico, or in relation to Puerto Rico; including the recommendation of appropriate legislation to the appropriate officials of each government.

(c) Any necessary task forces established by the Joint Transition Commission shall be constituted in the same manner as the Commission.

(d) The Government of the Commonwealth of Puerto Rico and the agencies of the Government of the United States shall cooperate with the Joint Transition Commission and subsequently with the new officers of the Republic of Puerto Rico, to provide for the orderly transfer of the functions of government.

(e) The costs of the Transition Commission shall be evenly divided between the United States and Puerto Rico, and there is hereby authorized to be appropriated such sums as are necessary for the United States share of these costs. Agencies of the United States Government shall provide technical assistance to the Joint Transition Commission on a reimbursable basis.

SEC. 306. RESOLUTION OF CONTROVERSIES PRIOR TO INDEPENDENCE.

Except as provided in title I of this Act and beginning on the date of the certification provided for in title I of this Act, and until the date of proclamation of independence, any action arising from this title filed in courts of the United States shall be stayed and referred to the Joint Transition Commission for resolution within a reasonable period of time.

SEC. 307. PROCLAMATIONS BY THE PRESIDENT OF THE UNITED STATES AND THE HEAD OF STATE OF THE REPUBLIC OF PUERTO RICO.

(a) Not later than one month after the official certification of the elected officers of the Republic of Puerto Rico under section 304, and the approval, in accordance with the constitutional processes of Puerto Rico and the United States, of the agreements set forth in sections 312 and 313, the President of the United States shall by proclamation withdraw and surrender all rights of possession, supervision, jurisdiction, control or sovereignty then existing and exercised by the United States over the territory and people of Puerto Rico, and shall furthermore recognize on behalf of the United States of America the independence of the Republic of Puerto Rico and the authority of the government instituted by the people of Puerto Rico under the Constitution of their own adoption. The proclamation shall state that the effective date of withdrawal of the sovereignty of the United States and the recognition of independence shall be the same as the date of the proclamation of independence, as provided in subsection (d).

(b) The President of the United States shall forward a copy of the proclamation issued by him to the presiding officer of the Constitutional Convention of Puerto Rico within a week after signature.

(c) Within one week after receiving the Presidential proclamation and with the advice of the officer elected as head of state of the Republic, the presiding officer of the Constitutional Convention shall determine the date on which the Government of the Republic shall take office, and shall so notify the Governor of the Commonwealth of Puerto Rico and the President of the United States.

(d) Upon taking office, the head of state of the Republic of Puerto Rico shall immediately issue a proclamation declaring (1) that Puerto Rico has become a sovereign, independent nation; (2) that the Constitution of the Republic is thenceforth in effect; (3) that the Commonwealth of Puerto Rico and its Government have ceased to exist; and (4) that the Government of the Republic will henceforth exercise its powers and duties under its Constitution.

SEC. 308. EFFECTS OF THE PROCLAMATION OF INDEPENDENCE ON LEGAL AND CONSTITUTIONAL PROVISIONS.

(a) Upon the proclamation of independence as provided in section 307, and except as otherwise provided in this title or in any separate agreements hereinafterwards concluded between the United States and the Republic of Puerto Rico—

(1) all property, rights, and interests which the United States may have acquired over Puerto Rico by virtue of the Treaty of Paris of 1898, and thereafter by cession, purchase, or eminent domain, with the exception of such land and other property, rights, or interests as may have been sold or otherwise legally disposed of prior to the enactment of this Act, shall vest in the Republic of Puerto Rico;

(2) all laws of the United States applicable to the Commonwealth of Puerto Rico immediately prior to the proclamation of independence shall no longer apply in the Republic of Puerto Rico; and

(3) all laws and regulations of the Commonwealth of Puerto Rico in force immediately before the proclamation of independence shall continue in force and shall be read with such modifications, adaptions, qualifications and exceptions as may be necessary to bring them into conformity with the Constitution of the Republic of Puerto Rico until such time as they shall be replaced with new legislation: *Provided,* That any provisions that may be incompatible with the sovereignty of the Republic of Puerto Rico shall be deemed invalid.

SEC. 309. EFFECTS OF THE PROCLAMATION OF INDEPENDENCE ON JUDICIAL PRONOUNCEMENTS.

Unless otherwise agreed by the Governments of the United States and Puerto Rico in accordance with their respective constitutional processes:

(a) The Republic of Puerto Rico shall recognize and give effect to all orders and judgments rendered by United States or Commonwealth courts prior to the proclamation of independence pursuant to the laws of the United States then applicable to the Commonwealth of Puerto Rico.

(b) All judicial proceedings pending in the courts of the Commonwealth of Puerto Rico prior to the proclamation of independence shall be continued in the corresponding courts under the Constitution of the Republic of Puerto Rico.

(c) Upon the proclamation of independence, the judicial power of the United States shall no longer extend to Puerto Rico. All proceedings pending in the United States District Court for the District of Puerto Rico shall be transferred to the corresponding Puerto Rican courts of competence under the Constitution of the Republic of Puerto Rico for disposition in conformity with laws applicable at the time when the controversy in process arose. All proceedings pending in the United States Court of Appeals for the First Circuit, or in the Supreme Court of the United States, which may have initiated in the courts of the Commonwealth or in the United States District Court for the District of Puerto Rico shall continue until their final disposition and shall be submitted to the competent authority of the Republic of Puerto Rico for proper execution: *Provided*, That neither the United States nor any of its officers is a party, in which case any final judgment shall be properly executed by the competent authority of the United States.

SEC. 310. STATE SUCCESSION.

(a) The Government of the Republic of Puerto Rico shall be deemed successor to the Government of the Commonwealth of Puerto Rico and of all the rights and obligations thereof.

(b) Upon proclamation of independence the President of the United States shall notify the governments with which the United States is in diplomatic correspondence, to the United Nations Organization, and to the Organization of American States, that—

(1) the United States has recognized the independence of the Republic of Puerto Rico; and

(2) all obligations and responsibilities of the Government of the United States which arise from any valid bilateral or multilateral international instruments affecting Puerto Rico, insofar as said instruments may be held to have consequences for the United States because of their application to or in respect to Puerto Rico, shall cease: *Provided*, That such obligations and responsibilities may be assumed by the Government of the Republic of Puerto Rico in a manner to be determined and proclaimed by the appropriate officer of the Republic of Puerto Rico in accordance with its Constitution.

SEC. 311. CITIZENSHIP AND MIGRATION.

(a) All matters pertaining to Puerto Rican citizenship shall be regulated pursuant to the Constitution and laws of the Republic of Puerto Rico.

(b) Upon the certification of the referendum under section 101(c) of this Act, Puerto Rico shall no longer be deemed to be a part of the United States for the purposes of acquiring citizenship of the United States by place of birth. Provisions of the Jones Act and Immigration and Nationality Act declaring Puerto Rico to be a part of the United States for the purpose of extending citizenship to persons born in Puerto Rico are repealed or modified, as appropriate, to delete any reference to Puerto Rico and Puerto Rico shall not be considered to be a part of the United States for such purposes: *Provided*, That nothing in this section shall affect the citizenship of any person born prior to the date of the certification of the referendum.

(c) Notwithstanding any other provision of law, no person born outside of the United States after the Proclamation of Independence shall be a citizen of the United States at birth if the parents of such person acquired citizenship in the United States solely by virtue of being born in Puerto Rico prior to the Proclamation of Independence pursuant to the provisions of the Jones Act and the Immigration and Nationality Act.

(d) Every person who is not a citizen of the United States and becomes a citizen of the Republic of Puerto Rico upon proclamation of Independence, or becomes a citizen of the Republic by birth after the proclamation of Independence, or is a naturalized citizen of the Republic who has been an actual resident of Puerto Rico for not less than five years, may, after proclamation of Independence, enter into, lawfully engage in occupations, and establish residence as immigrants in the United States, as provided by law and regulations of the United States: *Provided*, That notwithstanding any other provision of law, persons identified under subsection (c) above may, for a period of twenty-five years after such proclamation, enter into, lawfully engage in occupations, and establish residence as a nonimmigrant in the United States and its territories and possessions, and such persons shall be considered to have the permission of the Attorney General of the United States to accept employment in the United States: *Provided further*, That this subsection does not confer on such citizens of Puerto Rico the right to establish the residence necessary for naturalization under the Immigration and Nationality Act, or to petition for benefits for alien relatives under that Act. This subsection, however, shall not prevent a citizen of Puerto Rico from otherwise acquiring such rights or lawful permanent resident alien status in the United States.

SEC. 312. DEFENSE.

(a) Specific arrangements for the use of military areas by the United States in Puerto Rico, and to meet United States defense interests, shall be negotiated by a task force established by the Joint Transition Commission, and approved in accordance with the constitutional processes of the United States and Puerto Rico, and shall come into effect simultaneously with the proclamation of independence. These specific arrangements shall include—

(1) detailed operating rights and status of forces agreements executed by the Government of Puerto Rico and the Government of the United States of America providing for continued use and unrestricted access, by the Government of the United States, to military installations and facilities, and Coast Guard facilities, to the same extent, and in the same manner, of use and access as existed during the period of time prior to the referendum provided for in section 101 of this Act;

(2) an agreement by the Government of Puerto Rico to deny to third countries any access to or use of the territory of Puerto Rico for military purposes, except as specifically authorized by the Government of the United States; and

(3) an agreement by the Government of Puerto Rico that the foregoing conditions will remain in full force and effect until terminated or otherwise amended by mutual consent of the Governments of Puerto Rico and of the United States: *Provided*, That either party may at any time request the initiation of renegotiations of such conditions.

(b) Mutual consent by the United States to any alteration, modification, amendment, limitation, termination, or other change in the agreement referred to in paragraph (2) shall occur only pursuant to a specific Act of Congress.

SEC. 313. FEDERAL PROGRAMS.

The following provisions of this title are enacted in recognition of the unique relationship between the United States and Puerto Rico, to affect a smooth and fair transition for the new Republic of Puerto Rico with a minimum of economic disruption, and to promote the development of a viable economy in the new Republic of Puerto Rico:

(a) All Federal programs shall continue to apply in Puerto Rico until the end of the fiscal year in which independence is proclaimed, at which time, a grant shall be paid to the Republic of Puerto Rico pursuant to subsection (3).

(b) Specific arrangements for the continuation or phaseout of Federal programs shall be negotiated by a Task Force on Economic Assistance established by the Joint Transition Commission and approved in accordance with the constitutional processes of Puerto Rico and the United States, and shall come into effect simultaneously with the proclamation of independence. In general, the specific arrangements shall provide that—

(1) all Federal pension programs, such as veterans and civil service benefits, shall continue as provided by United States law;

(2) prior to the end of the fiscal year in which independence is proclaimed, an estimate will be determined by the Comptroller General of the United States of the total number of grants, programs, and services, including Medicare, provided by the Federal Government in Puerto Rico in such fiscal year, except for those grants, programs, and services which will otherwise continue under this Act;

(3) a grant equal to the amount established under paragraph (2) shall be paid annually to the Republic of Puerto Rico beginning in the fiscal year following the year in which independence is proclaimed, through the ninth year following the certification of the referendum;

(4) the United States will fulfill any contractual obligations outstanding at the time of the proclamation of independence; and

(5) Puerto Rico may request that the United States renew or continue any existing contractual obligations: *Provided*, That Puerto Rico agrees that the cost of such renewal or continuation shall be deducted from the annual grant made under paragraph (3).

(c) There are authorized to be appropriated such sums as may be necessary to fulfill the purposes of this section.

SEC. 314. SOCIAL SECURITY.

(a) The Joint Transition Commission established under section 305 of this Act shall establish a Task Force on Social Security to protect the rights of workers who have permanently insured status under the Old Age, Survivors and Disability Insurance programs under title II of the Social Security Act, as of five years subsequent to the certification of the referendum, and to negotiate agreements necessary for the coordination of the Social Security System of the United States with a similar system to be established in the new Republic of Puerto Rico. Any such agreement shall be approved in accordance with the constitutional processes of Puerto Rico and the United States.

(b) In order to provide adequate time for the negotiation and implementation of the agreements provided for in (a), the current provisions of the Old Age, Survivors, and Disability Insurance programs under title II of the Social Security Act shall apply for five years subsequent to the certification of the referendum under section 101 of this Act.

SEC. 315. MEDICARE.

The Joint Transition Commission established under section 305 of this Act shall establish a Task Force on Medicare to negotiate agreements necessary for the coordination of the Medicare system of the United States with a similar system to be established in the new Republic of Puerto Rico. Any such agreement shall be approved in accordance with the constitutional processes of Puerto Rico and the United States.

SEC. 316. TRADE RELATIONS.

(a) Until the proclamation of independence trade relations between Puerto Rico and the United States shall be as currently provided by law.

(b) The Joint Transition Commission shall establish a Task Force on Trade to consider and develop specific provisions governing trade between the United States and Puerto Rico following the Proclamation of Independence. Congress expresses its willingness to consider a mutual free trade arrangement if negotiated. In the absence of any such agreement, Puerto Rico shall be afforded most favored nation status and: Provided, That Puerto Rico meets all criteria and requirements under the Caribbean Basin Economic Recovery Act, designation as a beneficiary country under the Caribbean Basin Initiative.

(c) In order to assist Puerto Rico subsequent to the Proclamation of Independence, the President is encouraged to seek to obtain favorable tariff treatment for exports from Puerto Rico from other nations and to encourage other countries to designate Puerto Rico as a beneficiary under their respective General Systems of Trade Preferences.

SEC. 317. TAXATION.

(a) Effective on the date of proclamation of independence, the tax credit allowed under section 936 of the United States Internal Revenue Code shall not be available with respect to income or investments from activity in Puerto Rico.

(b) The Joint Commission established under section 305 of this Act shall establish a Task Force on Taxation to negotiate appropriate Tax Treaties to govern relations between the United States and Puerto Rico. Such agreements shall be approved by the government of Puerto Rico and the United States in accordance with their respective constitutional processes.

SEC. 318. CURRENCY AND FINANCE.

(a) The Joint Transition Commission established under section 305 shall establish a Task Force on Currency and Finance to negotiate an agreement to assist the Republic of Puerto Rico in the design and establishment of a deposit insurance system, to determine the extent of financial support to be provided for the system by United States insurance organizations in which Puerto Rico's financial institutions currently participate, and to make the necessary arrangements with respect to the use of United States currency by the Republic of Puerto Rico if so requested by the Republic. Any such agreement shall be approved in accordance with the constitutional processes of Puerto Rico and the United States.

(b) The guarantees provided by the Government of the United States to investors in the secondary market for existing loans, particularly mortgage loans guaranteed by the Government National Mortgage Association (GNMA), the Federal National Mortgage Association (FNMA), the Federal Home Loan Mortgage Corporation (FHLM) and other United States Government instrumentalities, shall be maintained for Puerto Rico-originated loans existing on the date of the proclamation until maturity.

SEC. 319. PUBLIC DEBT.

The debts, liabilities, and obligations of the Commonwealth of Puerto Rico, its municipalities and instrumentalities, valid and outstanding upon the date of the proclamation of independence, shall be assumed by the Republic of Puerto Rico. The tax treatment of any such obligations shall be unaffected by the proclamation of independence to the extent that similar obligations issued by states are so treated.

TITLE IV—COMMONWEALTH

SEC. 401. PROVISIONS.

Should Commonwealth be certified, under section 101 of this Act, as having obtained a majority of the votes cast in the referendum, the provisions of this title shall go into effect on October 1, 1991.

SEC. 402. PRINCIPLES OF COMMONWEALTH.

(a) The Commonwealth of Puerto Rico is a self-governing body politic joined in political relationship with the United States and under the sovereignty of the United States. This relationship is permanent unless revoked by mutual consent.

(b) The policy of the United States shall be to enhance the Commonwealth relationship enjoyed by the Commonwealth of Puerto Rico and the United States to enable the people of Puerto Rico to accelerate their economic and social development, to attain maximum cultural autonomy, and in matters of government to take into account local conditions in Puerto Rico.

SEC. 403. APPLICATION OF FEDERAL LAW.

(a) Notwithstanding any other provision of law, the Governor of the Commonwealth of Puerto Rico may certify from time to time to the Speaker of the House of Representatives and the President of the Senate, that the Legislature of the Commonwealth of Puerto Rico has adopted a resolution that states that a Federal law or provision thereof should no longer apply to the Commonwealth of Puerto Rico because there is no overriding national interest in having such Federal law be applicable in the Commonwealth of Puerto Rico and such applicability does not serve the interests of the people of the Commonwealth of Puerto Rico. A Federal law or laws or provision thereof so certified shall no longer apply to the Commonwealth of Puerto Rico if a joint resolution approving the recommendation of the Government of the Commonwealth of Puerto Rico is enacted.

(b) EXPEDITED CONGRESSIONAL REVIEW.—

(1) CONGRESSIONAL RULEMAKING.—This subsection is enacted by the Congress as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but is applicable only with respect to the procedure to be followed in this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith.

(2) RESOLUTION.—For purposes of this subpart, the term "resolution" means only a joint resolution, the matter after the resolving clause of which is as follows: "That the House of Representatives and the Senate approve the recommendation of the Government of the Commonwealth of Puerto Rico in the certification submitted to the Congress on   , 19 ". Such resolution shall also include the certification received from the Governor of the Commonwealth of Puerto Rico and a copy of the resolution adopted by the Legislature of the Commonwealth of Puerto Rico.

(3) REFERRAL.—A resolution once introduced with respect to such a certification by the Governor of the Commonwealth of Puerto Rico shall immediately be referred by the Speaker of the House of Representatives and the President of the Senate, as the case may be, to the House Committee on Interior and Insular Affairs and to the Senate Committee on Energy and Natural Resources and at the same time to such other committees as the Speaker of the House of Representatives or the President of the Senate, respectively, shall determine.

(4) DISCHARGE.—

(A) IN GENERAL.—If the committee or committees to which a resolution with respect to a certification by the Governor of the Commonwealth of Puerto Rico has been referred has not reported it at the end of forty-five calendar days after its referral, it shall be in order to move to discharge the committee from further consideration of such resolution.

(B) MOTIONS.—A motion of discharge may be made only by an individual favoring the resolution and shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same submittal), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) RENEWAL.—If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same submittal.

(5) FLOOR CONSIDERATION.—

(A) MOTION TO CONSIDER.—When the last committee has reported, or has been discharged from further consideration of a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) DEBATE AND CONSIDERATION.—Debate on the resolution referred to in subparagraph (A) of this paragraph shall be limited to not more than ten hours, which shall be divided equally between those favoring and those opposing such resolution. A motion to further limit debate shall not be debatable. An amendment to or motion to recommit the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to.

(6) DETERMINATION ON MOTIONS.—

(A) MOTIONS TO POSTPONE OR TO PROCEED TO OTHER BUSINESS.—Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

(B) APPEALS FROM THE DECISION OF THE CHAIR.—Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

(7) SUBSEQUENT ACTION.—Notwithstanding any of the provisions of this subsection, if a House has approved a resolution with respect to a submittal, then it shall not be in order to consider in that House any other resolution with respect to the same such submittal.

(8) COMPUTATION OF PERIOD.—For the purpose of this subsection—

(A) continuity of session is broken only by an adjournment of the Congress sine die; and

(B) the days on which either House is not in session because of any adjournment of more than three days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

(c) This section shall not apply to—

(1) any Federal statutory law, or provision thereof, establishing directly or indirectly grants and/or services to citizens of the United States as individuals;

(2) any Federal statutory law or provision thereof relating to citizenship; or

(3) any Federal statutory law or provision thereof pertaining to the foreign relations, defense, or national security.

(d) The Governor of Puerto Rico may enter into international agreements to promote the international interests of Puerto Rico as authorized by the President of the United States and consistent with the laws and international obligations of the United States.

SEC. 404.—REGULATORY REVIEW.

(a) For the purposes of this section, the definitions in title 5, United States Code, section 551, apply.

(b) All agencies shall be guided by the policy stated in section 402 when carrying out their duties under statutes and rules applicable in or affecting the Commonwealth of Puerto Rico. Any agency that engages in rulemaking pursuant to title 5, United States Code, section 553, shall include in the concise general statement of the basis and purpose of any final rules adopted in response to any data, views, or arguments submitted to it that raise a question of the consistency of such rules with such policy.

(c) When an agency publishes in the Federal Register any final rule (other than a rule issued after notice and hearing required by statute), that does by its terms apply in the Commonwealth of Puerto Rico, the Governor of the Commonwealth of Puerto Rico may submit to the agency within thirty days (or such longer period as the agency may have prescribed as the period between publication of the rule and its effectiveness) the Governor's determination that such rule is inconsistent with such policy and, if appropriate, of how it could be made consistent. Thereupon, the agency shall reconsider the question of the consistency of its rule with such policy and shall, within forty-five days of its receipt of the Governor's determination, publish in the Federal Register its finding either—

(1) that—

(A) by the terms of the statute pursuant to which the rule is made the agency has no discretion to make the rule inapplicable in the Commonwealth of Puerto Rico or to vary the terms of the rule in its application to the Commonwealth or,

(B) there is a national interest that the rule be applicable in Puerto Rico in the terms in which it was published, or

(2) that the rule is not consistent with such policy, in which case the rule, whether or not previously applicable in the Commonwealth of Puerto Rico in accordance with its terms as published, shall not be so applicable or shall be applicable only in accordance with the terms specified in the agency's finding.

(3) Within sixty days of the publication by an agency of the finding provided for in paragraph (1) the Governor of the Commonwealth of Puerto Rico, if aggrieved by such finding, may petition for review thereof in the United States Court of Appeals of the First Circuit or the District of Columbia Circuit. In any such review proceeding the scope of review shall be as prescribed in section 706 of title 5, United State Code. Federal courts shall have no jurisdiction to entertain any action brought by any other party challenging agency compliance with this subsection.

SEC. 405. AVIATION.

The officials of the Department of State and the Department of Transportation shall seek the advice of appropriate officials of the Commonwealth of Puerto Rico when negotiating any air transportation agreements which would affect air traffic to or from the Commonwealth of Puerto Rico.

SEC. 406. INTERNATIONAL TRADE.

(a) Section 2 of the Act of April 12, 1900 (48 U.S.C. 739), is amended by inserting the following subsection:

"(1) As strictly limited by the international obligations of the United States, the Commonwealth of Puerto Rico is authorized to impose tariff duties on foreign origin products imported into Puerto Rico from outside the customs territory of the United States. Such tariff duties may be in addition to the general tariff duties imposed by the United States if such general tariff duties are not subject to United States international obligations, or in cases where the general duty is applied at a rate below that which is subject to United States international obligations. In the latter case, the combined duties shall not exceed the level for which a United States international obligation exists."

(b) Section 1102 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2902), is amended by adding a new subsection (e) as follows:

"(e)(1) During the negotiation of any trade agreement under subsections (a), (b), and (c), it is the sense of the Senate that the President should consider the effects of any proposed tariff rate or any proposed changes in nontariff measures on the economy of Puerto Rico and should consult with the Governor of the Commonwealth of Puerto Rico concerning such potential effects before concluding international trade negotiations.

(2) It is the sense of the Senate that the President should seek to obtain favorable treatment from foreign countries for exports from the Commonwealth of Puerto Rico and should take steps to encourage other countries to consider Puerto Rico as a developing area for purposes of their respective Generalized Systems of Trade Preferences schemes, and any such regional systems of trade preferences.".

SEC. 407. FEDERAL PROGRAMS: CONSOLIDATION OF GRANT-IN-AID PROGRAMS.

Section 501 of Public Law 95–134 (91 Stat. 1159, 1164) as amended, is further amended by deleting "Virgin Islands," and inserting in lieu thereof "Virgin Islands, Puerto Rico,".

SEC. 408. CONSULTATION IN APPOINTEES AND NOMINATIONS.

(a) In considering the qualifications of persons who may be appointed to serve as: Supervisor, Caribbean National Forest; Superintendent, San Juan Historic Site; Manager, Department of Housing and Urban Development, San Juan; Director, Caribbean Field Office, Environmental Protection Agency; Director, Farmer's Home Administration, San Juan; District Director, United States Customs Service, San Juan; District Director, Small Business Administration; and District Director, Immigration and Naturalization Service; the head of such department or agency shall consult with the Governor or other appropriate official in Puerto Rico as to whether there are special circumstances or qualifications which should be considered in making the appointment.

(b) Prior to nominating any person to serve in Puerto Rico whose appointment requires the advice and consent of the Senate of the United States, the President shall consult with the Governor as to whether there are any special circumstances or qualifications which should be considered in deciding on a nomination. Nothing in this section requires or prohibits the disclosure of individuals under consideration for such position. nor as a limitation on the ability of the heads of agencies to appoint, or the President to nominate any individual. This subsection shall not apply with respect to any position in the Armed Forces of the United States, the Coast Guard, and in agencies engaged in law enforcement.

SEC. 409. PUERTO RICO LIAISON OFFICE.

(a) There is hereby established the Office of Senate Liaison for the Commonwealth of Puerto Rico ("Office"). The Office shall be headed by an individual appointed by the Governor of Puerto Rico and who shall serve at the pleasure of the Governor and who shall be known as the Puerto Rico Liaison. The purposes of the Office shall be to facilitate the exchange of information between the Senate and the Government of Puerto Rico.

(b) The Committee on Rules and Administration shall determine what facilities and services shall be available to such Office. All personnel of such Office shall be issued such identification as will entitle them to the same privileges as are afforded to employees of the Congressional Research Service and no employee of the Office shall be permitted privilege of the Senate floor.

(c) There are authorized to be appropriated annually $600,000 for salaries and $56,000 for office expenses of the Office. The Liaison shall appoint and fix the compensation of such personnel as may be necessary to carry out the duties and functions of the Office. All personnel of the Office, including the Liaison, while not employees of the Senate, shall, other than as provided in subsection (b), be treated as if they were employees of the Senate with respect to pay and employment benefits, rights, privileges, and restrictions and shall be subject to all requirements otherwise applicable to employees of the Senate.

(d) The Office shall be subject to the jurisdiction of the Committee on Rules and Administration.

SEC. 410. PASSPORTS.

(a) The following new section shall be added to title 22 as section 211b:

"SECTION 211b. UNITED STATES PASSPORT OFFICE IN PUERTO RICO.

"The Secretary of State shall establish a Passport Office for the Caribbean located in San Juan, Puerto Rico.

"(b) The Secretary of State and the Attorney General shall consult with the Governor of Puerto Rico to determine what administrative actions can be taken to expedite the processing of visas and also to provide an expedited consideration of visas where the Governor makes such a request to accommodate an individual or individuals who have been invited to Puerto Rico by the Governor and shall report to Congress on such consultations and administrative action by March 15, 1990.".

SEC. 411. COMMUNITY VALUES.

The actions specified in subsection (b) shall be exempt from the antitrust laws of the United States.

(a) Definitions.—

(1) "antitrust laws" has the meaning given such term in the first section of the Clayton Act (15 U.S.C. 12) and shall also include section 5 of the Federal Trade Commission Act (15 U.S.C. 45);

(2) "person in the television industry" means a television network, any entity which produces programming for television distribution, including theatrical motion pictures, the National Cable Television Association, the Association of Independent Television Stations, Inc., the National Association of Broadcasters, the Motion Picture Association of America, and each of the networks' affiliate organizations, and television stations and cable television operators licensed to operate in Puerto Rico and shall include any individual acting on behalf of such person; and

(3) "telecast" means any program broadcast by a television broadcast station or transmitted by a cable television system.

(b) The antitrust laws shall not apply to any joint discussion, consideration, review, action or agreement by or among persons in the television industry for the purpose of, and limited to, developing and disseminating voluntary guidelines designed to (1) alleviate the negative impact of violence in telecast material, (2) alleviate the negative impact of illegal drug use in telecast material, and (3) alleviate the negative impact of sexually explicit material in telecast material, and promote local programming in the Commonwealth of Puerto Rico.

(c)(1) The exemption provided in subsection (b) shall not apply to any joint discussion, consideration, review, action, or agreement which results in a boycott of any person.

(2) The exemption provided in section 2 shall apply only to activities conducted within thirty-six months after the date of enactment of this Act, but may be extended for other thirty-six month periods upon declaration by the Governor of Puerto Rico.

SEC. 412. FEDERAL PROPERTIES.

(a)(1) The President shall report to Congress by March 15, 1990, on the eight Federal properties listed in paragraph (3) below. The report shall include an assessment of the Federal need for each property, the costs and/or benefits of disposal of each property, and the comments of the Government of the Commonwealth of Puerto Rico regarding each property.

(2) Unless the President finds that there is a national interest which requires continued Federal ownership of each property, then he shall provide for the transfer of such properties to the Commonwealth of Puerto Rico according to such terms as he determines to be appropriate with respect to each.

(3) Identified Properties:
- (A) The Federal courthouse in Old San Juan;
- (B) Former Stop 7½ Naval Residence;
- (C) San Geronimo Quarters;
- (D) Custom House in San Juan;
- (E) Custom House in Mayaguez;
- (F) Custom House in Ponce;
- (G) Custom House in Fajardo; and
- (H) Coast Guard facility at Puntilla.

SEC. 413. SAN JUAN NATIONAL HISTORIC SITE ADVISORY COMMISSION.

(a) There is hereby established a commission to be known as the San Juan National Historic Site Advisory Commission ("the commission") which shall regularly advise the Secretary of the Interior ("the Secretary") on the operation, management, and administration of the San Juan National Historic Site ("the site").

(b) The commission shall consist of the Governor of the Commonwealth of Puerto Rico (or the Governor's designee), the Director of the National Park Service (or the Director's designee), three members to be appointed by the Governor of the Commonwealth of Puerto Rico, and three members to be appointed by the Secretary. One of the members appointed by the Governor and one member appointed by the Secretary shall serve as cochairpersons of the commission.

(c)(1) Members appointed to the commission by the Governor and the Secretary shall be appointed for a term of four years. A member may serve after the expiration of his term until his successor has taken office.

(2) Any vacancy on the commission shall be filled in the manner the original appointment was made.

(3) Members of the commission shall receive no additional pay, allowances, or benefits as a result of their service on the commission, but the Secretary may pay expenses reasonably incurred in carrying out their responsibilities under this section on vouchers signed by the cochairpersons;

(4) A majority of the members of the commission shall constitute a quorum but a lesser number may hold hearings. Each member of the commission shall be entitled to one vote, which shall be equal to the vote of every other member of the commission.

(5) The provisions of section 14(b) of the Federal Advisory Committee Act (Act of October 6, 1972; 86 Stat. 776) are hereby waived with respect to the commission.

(d) The Secretary shall from time to time, but at least annually, meet with the commission on matters relating to the planning, management and administration of the site. Such meetings shall be open to the public and shall be held at such times and in such places as to encourage public participation. The commission shall provide the public with adequate notice of such meetings.

(e) The commission shall prepare annually and transmit to the Secretary, the Committee on Energy and Natural Resources of the United States Senate, and the Committee on Interior and Insular Affairs of the United States House of Representatives, a report containing such information and recommendations regarding the operation, management, and administration of the site as the commission deems desirable, including but not limited to recommendations with respect to the revision of the general management plan for the site.

PURPOSE

The purpose of S. 712 is to provide for the exercise of self-determination by the people of Puerto Rico through a referendum on the future political status of the island. Title I sets forth the legal framework and timing of the referendum. Titles II, III, and IV set forth detailed definitions of the three respective status options: statehood, independence and commonwealth. The option which receives a majority vote in the referendum would be implemented in accordance with the appropriate Title of S. 712.

BACKGROUND

Puerto Rico is comprised of several islands in the Caribbean located about 1,000 miles southeast of Florida. The main island is roughly 110 miles long (east to west) and 35 miles wide (north to south) giving it a total land area almost half that of the state of Massachusetts. The population is estimated at 3.5 million, making Puerto Rico more populated than 27 of the States. In addition, there are an estimated 2.3 million citizens of Puerto Rican heritage living in the mainland United States.

The modern cultural identity of Puerto Rico developed during the 1800's when a large influx of Spaniards fleeing revolutions in both Spain and the Spanish colonies of America gained dominance over the black and indian inhabitants of the island. The political awareness and activism of these new immigrants resulted in the formation of local political parties to advance their interest in greater political participation under the appointed Spanish Governor. One group, the Asimilistas, sought full integration with Spain while the rival group's, the Autonomistas, objective was to obtain maximum local self-government. The struggle for greater local self-government led to an unsuccessful rebellion in 1868, and eventually, in 1897, to the conclusion of a Charter of Autonomy with the Spanish Crown. Political development under the Charter was arrested, however, when the United States invaded Cuba, the Philippines, Guam and Puerto Rico upon the outbreak of the Spanish-American War in 1898, and gained sovereignty over these areas, except Cuba, pursuant to the Treaty of Paris. Puerto Rico thereby came under the sovereignty of the United States subject to Congress's authority under the territorial clause of the Constitution (Article IV, Section 3) which grants Congress the authority to "dispose of and make all needful Rules and Regulations respecting the Territory . . . belonging to the United States;".

Historically, administration of territories had followed the policy established by the Northwest Ordinance of 1787 under which territories were organized and prepared for eventual statehood. The acquisition of Puerto Rico, the Philippines, and Guam as a result of the Spanish-American War, and the acquisition of Hawaii and

Eastern Samoa during the same period, presented the United States with two fundamental policy issues: should the Constitution fully apply in these territories; and should they be developed with statehood as the objective?

The Insular Cases, a series of Supreme Court opinions of the early 1900's, held that Congress had plenary authority over the territories and could limit the application of the Constitution. Moreover, the court established the concept of "unincorporated territory" which, unlike "incorporated territory", was not presumed to be moving toward eventual integration into the union as new states. Incorporation was held to be a promise of eventual statehood and incorporated states were referred to as "inchoate states". On the other hand, the Court also held that there was a limitation on Congressional authority to infringe on the fundamental rights of the inhabitants of the territories. Over the years, the courts have expanded the definition of "fundamental rights" to include essentially all of the provisions of the Bill of Rights.

The territorial "status" of the Philippines was resolved by the Tydings-McDuffie Act which resulted in independence, and of Hawaii by incorporation and eventual statehood. Hawaii is the only State which was ever "unincorporated", and then for only a brief period. Although the courts have shown considerable unease over the Insular Cases, the underlying principle that only fundamental provisions of the Constitution apply, absent Congressional action, was reaffirmed in *Northern Mariana Islands* v. *Atalig,* 723 F.2d 682 (9th Cir. 1984) regarding the right to trial by jury (also see *King* v. *Andrus,* 452 F. Supp. 11 (D.D.C. 1977) requiring juries in American Samoa).

The Foraker Act of 1900 established a government in Puerto Rico with a Governor appointed by the President; a bicameral legislature made up of an Executive Council, with a U.S. appointed majority, and a locally elected House of Delegates; and a Resident Commissioner as a non-voting representative to the U.S. Congress.

The Jones Act of 1917 provided Puerto Rico with a Bill of Rights, a grant of citizenship, and a locally elected Senate replacing the Executive Council. The Governor, Attorney General, Auditor and Secretary of Education remained appointees of the President.

The assimilationists in Puerto Rico, and some members of Congress, regarded the grant of citizenship under this Act as de facto incorporation leading to statehood. Nevertheless, in 1922 the Supreme Court ruled that it was not so, and Congress continued to treat U.S. citizens in Puerto Rico differently from citizens living in incorporated territories and the states. For example, in 1946, under the National School Lunch Act, the Congress began the practice of establishing "caps" to limit the funding allocation of the unincorporated territories in certain Federal programs.

Economically, Puerto Rico was very underdeveloped and particularly hard hit by the depression in the 1930's. Operation Bootstrap was the name of the economic program developed in the 40's to respond to these conditions and remake the economy of Puerto Rico through industrialization. The results of the program were spectacular—a sustained adjusted growth rate of over 5 percent annually from 1947 to 1974. Nevertheless, a substantial economic gap remains between the U.S. mainland and Puerto Rico; per capita income in Puerto Rico is only about half that of the poorest state, Mississippi.

Luis Muñoz Marin, a critical participant in the industrialization program, and the founder of the Popular Democratic Party, became the first locally elected Governor under the Elective Governor Act of 1947. Following his sweeping election victory, Governor Muñoz undertook to establish the local government under a local constitution.

Public Law 600, enacted in 1950, authorized the drafting of a local Constitution, to be ratified in a vote by the people of Puerto Rico, and set forth the provisions of laws which form the basis of Federal-Puerto Rican relations. These are known collectively as the Federal Relations Act. Prior to the final vote, Congress amended the draft constitution and required that the amendments be agreed to. The constitution was approved in a vote and the Commonwealth declared on July 25, 1952. The process was not without opposition, however, 27 people were killed in Nationalist violence, and an assassination attempt was made on President Truman.

This grant of self-government pursuant to a locally developed constitution was unique in the history of territorial administration. Historically, the approval of a local constitution had been an integral part of the resolution of territorial status through either Statehood or Independence. In fact, the Philippines were never given the opportunity to vote directly on status; the approval of a local constitution led directly to independence. Congress recognized that by providing for local self-government, it was affording the insular government the same degree of internal autonomy over matters of purely local concern which the United States Constitution guarantees the States. Public Law 600 provided, in language similar to that of the Northwest Ordinance, that "fully recognizing the principle of government by consent, this Act is now adopted in the nature of a compact so that the people of Puerto Rico may organize a government pursuant to a constitution of their own adoption." This approach was a clear break from traditional practice where local self-government was exercised by Congress pursuant to Organic legislation. Congress was explicit, however, in stating that the authorizing legislation was designed solely to establish local self-government and that in permitting Puerto Rico to exercise those aspects of sovereignty associated with matters of local concern it did not alter the fundamental relationship of Puerto Rico to the Federal Government.

> The measure would not change Puerto Rico's fundamental political, social and economic relationship to the United States. Those sections of the Organic Act of Puerto Rico concerning such matters as the applicability of United States laws, customs, internal revenue, Federal judical jurisdiction in Puerto Rico, representation in the Congress of the United States by a Resident Commissioner, et cetera, would remain in force and effect. Upon enactment of S. 3336, these remaining sections of the Organic Act would be referred to as the Puerto Rican Federal Relations Act.

> The sections of the Organic Act which section 5 of this bill would repeal are concerned primarily with the organization of the insular executive, legislative, and judicial branches of the government of Puerto Rico and other matters of purely local concern. (S. Rept. 81-1779, p. 3-4)

This language was repeated almost verbatim in the House Report (H. Rept. 81-2275, p. 3) and both reports explicitly stated: "S. 3336 is not a statehood bill. Nor is it an independence bill. It does not commit the Congress, either expressly or by implication, to take any action whatever with respect to either. It in no way precludes future determination by future Congresses of the political status of Puerto Rico." (S. Rept. 81-1779, p. 4, cf. H. Rept. 81-2275, pp. 3-4).

The establishment of local self-government in Puerto Rico led to U.N. Resolution 748 VIII in 1953 recognizing that Puerto Rico would no longer be considered subject to the Declaration regarding Non-Self-Governing Territories and that the United States could cease transmitting annual reports. Similar reporting with respect to Alaska and Hawaii ceased when those territories became States. The United States continues to report on the Virgin Islands, American Samoa, and Guam.

Establishment of the Commonwealth as a self-governing body politic did not resolve the status debate for either those advocating independence or statehood, or for those advocating additional authorities for the Commonwealth. In 1964, a bilateral Commission was established to examine the factors affecting Commonwealth status.

The 1964 Commission on the Status of Puerto Rico concluded "that all three forms of political status—the Commonwealth, Statehood, and Independence—are valid and confer upon the people of Puerto Rico equal dignity . . . (p. 6). In addition, the Commission concluded that any "abrupt change in political status would involve serious economic risks and dislocations", and pointed out the need for transition plans if the people of Puerto Rico wanted statehood or independence (p. 7). Finally, the Commission concluded that a vote on status perference would be helpful, and recommended the establishment of ad hoc advisory groups to consider specific status proposals following a vote.

Governor Muñoz pressed for a referendum and the opportunity to "perfect" commonwealth. The independentistas rejected the vote as biased, unless the U.S. transferred sovereignty beforehand. The statehooders split. One faction, headed by García Mendez, rejected the Commission recommendation for a vote, arguing that commonwealth could not be "perfected" as a permanent status, and a vote would legitimize that proposition. A rival faction, however, headed by Luis Ferré, pledged to work in good faith to get a statehood majority in the vote, notwithstanding their rejection of perfected commonwealth.

The referendum of 1967 was a choice between "perfected" commonwealth, statehood or independence, and the opportunity to approach Congress with the legislation necessary to implement the new status. Unfortunately, the people of Puerto Rico were charged with voting on three uncertainties, because all of the options depended on future action by Congress. Abstention was very high in the referendum in which Commonwealth received 60 percent of the vote. Ferré's statehooders received 40 percent. The vote was a victory for the Commonwealth party. But, after the split in the Statehood party, Ferré established the New Progressive Party (PNP) and went on to win the governorship, and a slim majority in the lower house. As a result of this Statehood victory, establishment of the anticipated ad hoc committee on perfected commonwealth failed to occur.

The Ad Hoc Committee was finally established following the return of the Commonwealth party to power in 1972, under Rafael Hernández Colón. The Committee drafted a "new compact of association" with the United States. The "new compact" proposals of the Committee were intended to "consolidate and improve" the relationship between the United States and Puerto Rico. U.S. responsibility for international relations and defense would continue, but Puerto Rico would gain control of immigration, wages, and environmental regulation. Puerto Rico would also gain representation in the U.S. Senate, and a special veto over the applicability of Federal law. Although legislation was introduced in Congress to implement the Committee's recommendations, little action beyond initial hearings was taken. When the Statehood party, now under the leadership of Carlos Romero Barceló, won the elections in 1976, further efforts to consider the report of the Ad Hoc Group ended.

In 1976, President Ford declared his preference for statehood and submitted statehood legislation to Congress. However, this bill, and the "new compact" legislation introduced earlier, both died with the adjournment of Congress. The Statehooders planned to advance their cause by following a strong victory in 1980 with a status referendum. Governor Romero's margin of victory was too thin, however, for him to advocate such a referendum. In 1984, Hernández Colón and the Commonwealth party were returned to power.

In 1979, in response to continuing efforts by Cuba to bring Puerto Rico's relationship with the United States before the United Nations, the Senate approved a resolution, S. Con. Res. 35, reaffirming Puerto Rico's right to self determination. In a statement given during floor consideration of this resolution, Senator Johnston stated a concern which has become a guiding principle in the current approach taken in the consideration of Puerto Rico's political status; that an exercise of self-determination by Puerto Rico, in order to be meaningful, must have the status options precisely defined by Congress.

> I sincerely believe that . . . we should develop the precise terms and conditions for Statehood, Independence, and the Commonwealth with all the social, economic and cultural implications, and lay those alternatives before the Congress. Once the Congress has indicated either the precise terms or parameters for consideration of each status, then the people of Puerto Rico can vote with full assurance that their vote will be implemented by the Congress. (p. S. 22290, Cong. Record August 2, 1979)

Following Governor Hernández Colón's 1988 reelection, the three party leaders: Hernández Colón, Baltasar Corrada del Rio (Statehood), and Rubén Berrios Martinez (Independence), sent a letter to the President and Congress requesting that the people of Puerto

Rico be "consulted" on their preference for future political status. Soon after this request was transmitted, Carlos Romero Barceló assumed leadership of the Statehood party and reaffirmed the PNP's commitment to developing a consultative process.

LEGISLATIVE HISTORY

On April 5, 1989 Senators Johnston and McClure introduced three bills, S. 710, S. 711, and S. 712, each of which would provide for a referendum on the political status of Puerto Rico. These bills varied in their level of detail, reflecting the uncertainty regarding the level of specificity which Congress would be able to achieve in its consideration of the definitions. S. 710, defines the status options in just a few words; S. 711, defines them in general terms, and a few pages; and S. 712, defines them in full detail, including transition and implementing provisions.

All three parties strongly prefer the approach in S. 712 which sets forth the status options in sufficient detail as to provide for self-implementation of the status receiving a majority of the votes. This approach would both avoid any uncertainty as to the specific details of each status alternative, and would provide assurance that the status receiving a majority vote will be implemented.

The Committee on Energy and Natural Resources held hearings on these bills in Washington, D.C. on June 1 and 2 to examine the initial definitions of the three status options as proposed by the respective political parties of Puerto Rico. A second set of hearings was held in Puerto Rico on June 16, 17 and 19 to obtain a range of views beyond those of the three principal political parties. Finally, hearings were again held in Washington, D.C. on July 11, 13, and 14 to obtain the views of the Administration, and other witnesses from outside of Puerto Rico. The Committee considered the legislation during four days of business meetings on July 26 and 27, and August 1 and 2. S. 712 was ordered favorably reported by the full Committee in an open business meeting on August 2, 1989.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources in an open business session on August 2, 1989, considered S. 712 and by a vote of 11 yeas and 8 nays of a quorum present recommends that the Senate pass S. 712, if amended, as described herein.

The rollcall vote on reporting the measure was 11 yeas, 8 nays as follows:

YEAS	NAYS
Mr. Johnston	Mr. Ford
Mr. Bumpers	Mr. Conrad
Mr. Metzenbaum [1]	Mr. Heflin
Mr. Bradley	Mr. Rockefeller
Mr. Bingaman [1]	Mr. Wallop
Mr. Wirth	Mr. Nickles
Mr. McClure	Mr. Burns
Mr. Hatfield [1]	Mr. McConnell [1]
Mr. Domenici	
Mr. Murkowski	
Mr. Garn	

[1] Indicates voted by proxy.

COMMITTEE AMENDMENT

During consideration of S. 712, the Committee adopted an amendment in the nature of a substitute. The amendment would substantially modify the provisions of Title I regarding the process of holding the referendum, and the definitions of the status options as proposed by the three principal political parties in Titles II, III, and IV. A brief discussion of the provisions of the substitute and how they differ from the earlier version of the bill follows. More detailed information on each of the provisions of the substitute is provided in the "Section-by-Section Analysis" portion of this Report.

Major Provisions of the Committee Substitute

TITLE I—REFERENDUM PROCEDURES

The amendment includes several significant modifications to Title I.

First, the amendment names S. 712 "The Puerto Rico Status Referendum Act" and sets forth the language which will appear on the referendum ballot. These changes clarify that the status options to be voted on will be as set forth in Titles II, III and IV of the Act. This clarification avoids the problem of developing ballot language to summarize the options.

Second, while the amendment does not change the provisions of the bill establishing the applicability of local election laws to the referendum, it would freeze those election laws as of July 15, 1989. This change was made in response to the concern that the local election laws could be modified prior to the election, particularly in the area of voter qualifications, in an effort to affect the referendum results. While there was no evidence presented to the Committee that such modifications were contemplated, this provision eliminates a potentially divisive issue.

Third, the amendment requires the Attorney General of the United States to provide for adequate monitoring of the referendum by United States Marshals. Although there was no evidence presented to the Committee that voting in Puerto Rico is not conducted in an open and fair manner, the Committee believes that the Federal interest in the referendum is so substantial that such a Federal presence is warranted. The Committee made no provision for international monitoring of the referendum because Puerto Rico's political status is an internal United States matter. However, the Committee has no objection to persons who may wish to observe the referendum.

Fourth, the amendment establishes procedures for Federal judicial review of legal disputes or controversies arising out of the referendum. The procedures provide that any aggrieved person may institute an action to challenge the results of the referendum on the basis that irregularities occurred which were significant enough to affect the outcome. These review procedures would be in addition to the local judicial review procedures originally provided for in S. 712 and were included in response to allegations that the local review procedures are not sufficiently isolated from local political influence so as to assure an unbiased judgment, or to avoid a deadlock in the review of disputes. While the Committee made no findings regarding the validity of these allegations, it was the Committee's view that these procedures would enhance the perception that the referendum would be fair and unbiased.

Finally, the amendment includes a new subsection providing for a Referendum Information Officer to be responsible for the translation and distribution of information and educational materials on the referendum. It was the Committee's view that such a Federal official, to be responsible for translating, summarizing and distributing information on the referendum, particularly information on the status definitions, would increase public understanding of the definitions and would thus enhance the validity of the vote.

TITLE II—STATEHOOD

Under the substitute, there are several significant modifications to Title II.

First, the initial section of the Title containing the recitals, or so-called "whereas" clauses, was deleted. These recitals were removed from each of the last three Titles of the bill because of the Committee's view that such statements are not essential to the status definitions and could confuse future interpretation of the legislative intent.

Second, the provision in S. 712 as introduced granting the new State the exclusive right to the resources of the 200-mile Exclusive Economic Zone are not included in the substitute.

Third, the substitute text does not contain the provision, Section 6(d) in the earlier version, which would have made payments to Puerto Rico to assist the State in payment of its public debt.

Fourth, the amendment clarifies that upon admission to the Union, the new State of Puerto Rico shall be entitled to such additional Representatives to the United States House of Representatives as would be provided based upon the 1990 census, and that the membership of the House would be permanently increased from 435 to accommodate the additional Representatives from Puerto Rico.

Fifth, the "Economic Adjustment" section of Title II has been entirely rewritten in response to the additional information that has become available regarding the prospective application of taxes and federal programs in a new state of Puerto Rico. The substitute language continues to be designed to provide for a smooth and fair economic transition for the new State with a minimum of economic dislocation. The Committee is, however, concerned regarding the adequacy of the data on which this economic adjustment section is based. The Committee recognizes that the Committee on Finance, which has jurisdiction for tax, trade and many of the social programs affected by this section, will have an opportunity to consider this section and make recommendations based on more adequate data and greater expertise.

The Committee's objective in recommending this economic adjustment section is to establish principles to guide future consideration. These principles include: first, that there ought to be an even playing field, politically, between the three political parties with regard to the status options; second, that there ought to be a smooth transition so that any change in political status, to statehood or independence, ought to work economically; and third, economic adjustment should be revenue-neutral to the extent possible, in that it does not cost the Treasury additional dollars over a period of time.

It is the Committee's intent that these three principles be achieved in any final legislation. It is intended that the referendum be decided on the broader issue of whether the people want commonwealth, statehood or independence.

There were specific concerns expressed as to whether the Committee had achieved an even playing field. Specifically, concerns were raised that there is a tilt toward statehood because there are a number of programs (Food stamps, Medicaid, AFDC) on which, effective January 1, 1992, the existing Federal "caps" on benefits would be eliminated and recipients of these program benefits might thus be encouraged to vote for statehood. However, the Committee believes that it could not respond to these concerns because the Committee did not have adequate information regarding these benefit increases under statehood, nor adequate information on the number of voters involved. Even more important, however, the Committee has sought, in crafting the economic provisions under Statehood, to respect the Constitutional imperatives of equal treatment while permitting only those delays which the Committee believes to be absolutely required for proper administrative reasons. The Committee's action should not be interpreted as an endorsement of Puerto Rico's present treatment, but simply a recognition that such treatment would not be Constitutionally permissible under Statehood.

The Committee did not include language in this section explicitly authorizing Puerto Rico to continue to apply tariffs on imported coffee. The United States Trade Representatives Offices testified that no statutory language is needed to authorize the continuation of such tariffs, and nothing in this Title is intended to alter Puerto Rico's continuing to apply tariffs on coffee imported from outside the United States.

Finally, the amendment deletes the two concluding sections of Title II as introduced regarding the treatment of language and culture in the new state. The Committee believes that Puerto Rico and the Federal government have achieved a balanced and accommodating relationship in these areas and it is unnecessary, and potentially disruptive, to attempt to legislate in these areas.

TITLE III—INDEPENDENCE

In general, Title III of the Committee substitute provides, should independence obtain a majority in the referendum, that a process culminating in eventual independence would be immediately initiated. The territorial clause of the Constitution provides Congress with the authority to grant independence to Puerto Rico through the incremental withdrawal of United States authority, beginning with a transfer of those aspects of sovereignty needed by the nascent state of Puerto Rico to develop its constitution, and ending in a proclamation of independence. A transition period of approximately two years would permit Puerto Rico to put a government in place, and to negotiate the agreements needed to govern relations between the United States and Puerto Rico following independence.

Except for the deletion of the recitals, the first several sections of Title III regarding the procedures for the establishment of the Republic of Puerto Rico remain essentially unchanged by the Committee substitute. However, the provisions on citizenship and migration, defense, and economic transition have been significantly modified.

First, on citizenship and migration, the Committee believes that the provisions for dual citizenship between the United States and the Republic of Puerto Rico, and for open immigration for 25 years, as proposed in the earlier version of S. 712, were inconsistent with the relationship between independent nations. The substitute, however, recognizes the unique relationship between the United States and Puerto Rico by providing that independence would have no impact on the citizenship of United States citizens born in Puerto Rico prior to the date of the certification of a majority vote for independence in the referendum. The substitute would, however, limit the citizenship of persons born in Puerto Rico to U.S. citizen parents following such certification, by repealing or modifying the provisions of the Jones Act, and Immigration and Nationality Act, which declare Puerto Rico to be a part of the United States for the purpose of extending citizenship to persons born in Puerto Rico. In addition, the amendment provides that every person who is not a citizen of the United States and becomes a citizen of the Republic of Puerto Rico upon proclamation of Independence, or who becomes a citizen of the Republic by birth after the proclamation of Independence, or is a naturalized citizen of the Republic who has been an actual resident of Puerto Rico for not less than five years, may, after the proclamation of independence, enter the United States for certain purposes for a period of 25 years.

Second, it was the Committee's view that the earlier language of Title III did not adequately respond to the defense needs of the United States in Puerto Rico, particularly in light of the substantial number of United States citizens who would continue to reside in Puerto Rico following independence, and whom the United States would be obliged to protect. Accordingly, the substitute requires that specific arrangements for the use of military areas, and to meet United States defense interests, shall be negotiated and come into effect simultaneously with the proclamation of independence.

Third, the substitute also sets forth, in general terms, the arrangements to be negotiated between the United States and Puerto Rico to affect a smooth and fair transition for the new Republic with a minimum of economic disruption, and to promote the development of a viable economy in the new Republic. As with the economic transition provisions recommended for Title II, the Committee recognizes the limitations of the data currently available on these economic issues, and it recognizes that there will be further consideration of these issues. It is the Committee's intent that its recommendations provide guidance for further consideration and that the three principles discussed previously: a level playing field among the options, a smooth transition to any new status, and revenue neutrality, be applied to all economic transition provisions.

TITLE IV—COMMONWEALTH

Several of the provisions of Title IV have been modified from the language of S. 712 as introduced, to provide as follows.

First, the statement of Principles of Commonwealth has been modified so as to maintain the fundamental relationship which currently exists between Puerto Rico and the Federal Government, and it sets forth the policy of the United States regarding Puerto Rico.

The Committee notes that the phrase "under the sovereignty of the United States" is not intended in any manner to diminish the autonomy which the Commonwealth exercises over matters of local self-government. The phrase simply reaffirms that Puerto Rico remains under the sovereignty of the United States as do the several States and other areas such as Guam, the Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands. United States sovereignty would be withdrawn under Independence, but would remain unaltered under Commonwealth. Puerto Rico would not be incorporated and Congress would retain the same flexibility in designing federal programs as it presently has. The objective of this title is to improve the present federal relationship and to recognize those areas where additional authorities to the local government would better provide for the welfare of the United States citizens resident in Puerto Rico.

Second, the procedure originally proposed for Congressional review of the applicability of Federal law in Puerto Rico has been modified to require the enactment of a resolution of Congress in order to make a law inapplicable in Puerto Rico. As introduced, the procedure would not have required an action by Congress. The substitute is designed to meet the basic concern of the Commonwealth government that the Congress formally reconsider the applicability to Puerto Rico of certain Federal laws as identified by the Government of Puerto Rico. The substitute responds to a Committee concern that the Constitution requires the enactment of legislation to amend federal law, instead of granting inapplicability upon the failure of Congress to act, as originally proposed.

Third, the procedure for the review of Federal regulations as they apply to Puerto Rico has also been modified. The substitute would require Federal agencies to be guided by the policy statement in Section 402 with respect to their actions which would have an impact in Puerto Rico. In addition, the substitute would require agencies, upon a determination by the Governor of Puerto Rico, to reconsider the consistency of their regulations with the Federal policy regarding Puerto Rico, and to make findings as to such consistency. Such findings would be reviewable in Federal court under the standards of review of the Administrative Procedures Act (5 U.S.C. 706) in actions brought by the Governor of Puerto Rico.

Fourth, the substitute omits the policy statement originally proposed in Section 11(b) calling for full parity treatment of Puerto Rico in Federal social programs. This subsection was deleted because the programs were within the primary jurisdiction of other Committees. The Committee notes that there is nothing inherent in the Commonwealth relationship which precludes parity treatment of Puerto Rico in Federal social programs.

Fifth, the substitute provides for a Puerto Rico Liaison Office rather than the Representative Office as originally proposed. The Liaison would be an official appointed by the Governor, instead of elected, and the Liaison would not be entitled to the floor privileges of the Senate. These, and other modifications, respond to concerns of the Committee that a Representative to the Senate from a non-state jurisdiction would be inconsistent with the principle that members of the Senate represent states.

Finally, there are a number of other provisions in Title IV such as: aviation, passports and visas, community values, international agreements and Federal properties, which have been modified to varying degrees in the substitute. These provisions will be described in detail in the Section-by-Section Analysis portion of this report. In general, however, these provisions are not directly related to the political status of Puerto Rico and, if determined to be wise Federal policy, then they should be enacted independent of any status legislation. However, their resolution should not delay passage of S. 712. Moreover, many of these provisions are of interest to other Committees of the Senate. The Committee intends to continue to work closely with other Committees to further refine these provisions. Certain provisions, such as those regarding the proceedings of the United States District Court for the District of Puerto Rico, and those regarding jurisdiction over maritime resources, may be introduced as separate legislative measures. This approach will allow their continued consideration by Congress without slowing consideration of S. 712.

SECTION-BY-SECTION ANALYSIS

Section 1, the enacting clause, states that the United States recognizes the principle of self-determination and other applicable principles of international law with respect to Puerto Rico; and the United States is committed to a process of consultation and negotiation with the People of Puerto Rico leading to a referendum on the issue of political status to be conducted in a fair and equitable manner.

Section 2, the short title, names the Act "The Puerto Rico Status Referendum Act".

TITLE I—REFERENDUM PROCEDURES

Section 101(a)—In General.—Provides for an island-wide referendum for voters to choose from the three status options as set forth in Titles II, III, and IV of the Act.

Subsection (b)—Date of Referendum.—Establishes the first vote to occur on June 4, 1991, or on a date during the summer of 1991 as may be mutually agreed by the three principal political parties of Puerto Rico.

Subsection (c)—Returns of Referendum.—Provides that the returns of the referendum shall be made to the Governor who shall cause the votes to be canvassed as provided by law for the canvass of votes cast in a general election for Federal office in the Commonwealth of Puerto Rico, such as the election of the Resident Commissioner.

Subsection (c) further provides that if there is not a majority in favor of one of the three options, then there shall be a runoff referendum, on August 6, or a mutually agreed upon date between the two options which had received the largest number of votes. This runoff referendum shall also include an option of "None of the Above" to provide an option to those who do not support either of the remaining choices. The "None of the Above" option would thus assure that the vote returns reflect actual support for an option and a majority would be a true majority, not a majority which included those persons who were presented with a choice between the "lesser of evils".

Finally, subsection (c) provides that the Governor shall certify to the President and to the Congress of the United States the results of the referendum.

Subsection (d)—Applicable Election Laws.—Establishes that the election laws of the Commonwealth of Puerto Rico for a general election for the election of a Federal officer as in effect on July 15, 1989, shall apply to the referendum. This subsection clarifies that such local law shall be modified only as provided for in this Act, and as is necessary to recognize that this is a referendum on status options, not an election of a Federal officer. These necessary modifications do not include any changes in voter qualifications or the manner in which votes are canvassed, counted and certified, or any other procedures of holding a vote. These necessary modifications would be of a purely technical nature, such as the calling of the election, and are intended to be made with the unanimous agreement of the three political parties.

Subsection (d) also requires that the Attorney General of the United States shall provide for adequate monitoring of the referendum by United States Marshals. The Committee believes that this referendum is of such national significance that Federal monitoring is warranted. The exact level of this monitoring is to be determined and provided by the Attorney General in recognition of the Federal government's commitment to a fair and equitable referendum, and to the potential need for Federal information in the event of disputes or controversies surrounding the vote. It is not intended in any manner to suggest that there is, has been, or may be a pattern of discrimination in Puerto Rico.

Subsection (e)—Judicial Review.—Provides that any legal dispute or controversy arising out of this referendum shall be adjudicated in accordance with local laws and procedures, except that aggrieved persons may challenge the results of the referendum on the basis that irregularities had occurred that were significant enough as to effect the outcome. To assure that disputes regarding the outcome of the vote are promptly resolved, such challenges shall be made to the special three-judge panel, established in paragraph (2). The Committee's action is not intended to express any concern over the objectivity or conduct of either the local or federal court in

Puerto Rico, but rather to provide expedited judicial review of this major issue. This special three-judge court will have exclusive jurisdiction to decide such challenges, but it is intended that the court will accord the same weight to local law as Federal courts generally accord local law in matters brought before them. The restriction that no judge on the panel shall be resident in Puerto Rico is intended to apply only to those who sit as judges in Puerto Rico, not those who reside in Puerto Rico but who sit on Federal courts other than the district court in Puerto Rico. It is further intended under this subsection, that if the Governor fails to make the certification within a reasonable period of time, a person may bring suit without regard to the 60 day time limit specified in subsection (e), because the certification would have been a basis for the 60 day period. Finally, appeals of the final judgment of the three-judge court would lie to the Supreme Court of the United States by way of certiorari.

Subsection (f)—Implementation.—Provides that the procedures for implementing the status option which has been certified to have received a majority vote shall go into effect on October 1, 1991 in accordance with the appropriate Title of this Act. This date does not apply where this Act specifically provides otherwise. Moreover, in the event of a delay due to a legal challenge, implementation of the status option receiving a majority shall go into effect as soon as is practicable after October 1, 1991. In the event no status option received a majority, then no further provisions of this Act would be implemented.

Subsection (g)—Referendum Information Officer.—Provides that the President shall appoint a Referendum Information Officer from a list, or lists if necessary to find an individual acceptable to the President, to be agreed upon and provided jointly by the three principal political parties. The Officer shall be bilingual and shall be reponsible for translating and distributing information and educational materials on the referendum to qualified voters. It is intended that the Officer develop a summary of the three status options from the legislative history of the Act in cooperation with members of Congress, and that the Officer make such a summary widely available, in both English and Spanish, through a postal patron mailing. The Officer is expected to remain strictly neutral with respect to the status options and to restrict statements and information to that set forth clearly in the legislative history.

TITLE II—STATEHOOD

Many of the provisions of Title II, such as 201, 203, 204, 205, 208, 209, 210, 211, and 212 appear in statehood enabling Acts.

Section 201—Proclamation.—Provides that should statehood be certified under section 101 as having obtained a majority of the votes cast in the referendum, and upon the certification of the election of the officers (Senators and Representatives) required under section 206, then the President shall issue a proclamation announcing the results of the election. Upon the issuance of such proclamation, the Commonwealth of Puerto Rico shall be declared to be state of the Union and shall be declared admitted to the Union.

Section 202—Constitution.—Declares that the Constitution of Puerto Rico shall always be republican in form and shall not be repugnant to the Constitution of the United States and the principles of the Declaration of Independence. This section also declares that the Constitution of Puerto Rico, adopted in 1951, has been found by Congress to be republican in form and to be in conformity with the Constitution of the United States and the principles of the Declaration of Independence, and was accepted, ratified and confirmed by Congress through Public Law 447 in 1952. Finally, this section declares that the current Constitution of the Commonwealth of Puerto Rico is accepted as the Constitution of the State. "Accepting" the current constitution means that notwithstanding any other law, the Constitution of Puerto Rico need not be further ratified or amended in order to achieve statehood.

Section 203—Territory and Boundaries.—Declares that the State shall consist of all of the territory, together with the waters included in the seaward boundary, of the Commonwealth of Puerto Rico. The current seaward boundary of Puerto Rico is 3 marine leagues, and is the same as Florida and Texas in the Gulf of Mexico, which also have a Spanish tradition from which this greater seaward boundary derives.

Section 204—State Title to Lands and Property.—Provides, in subsection (a), that the State, and its political subdivisions, shall retain title to all property which it currently holds, including submerged lands.

Subsection (b) provides that all lands and property set aside for use by the United States shall remain property of the United States.

Subsection (c) provides that, no later than five years after the date of admission, each Federal agency having control over any land or property in Puerto Rico shall report to the President and Congress concerning the future need for such land or property, and if the President determines that such land or property, or any portion thereof, or any interest therein is no longer needed by the Federal Government, then it shall be conveyed to the State at no cost. It is important to note that this language does not require that any lands be conveyed, and it specifically states that any interest, including any portion, of the Caribbean National Forest or the San Juan Historic Site is not authorized to be transferred.

Subsection (d) provides that in the event of the conveyance of land under subsection (c), all Federal laws: (1) reserving the free use or enjoyment of such property; or (2) reserving the right to alter, amend, or repeal laws relating to the ownership of such land; shall cease to be effective.

Section 205—Claims to Federal Lands and Property.—Subsection (a) provides that, as a compact with the United States, the Commonwealth and its people recognize all rights and titles to any lands or property not granted or conferred to the State or its political subdivisions by this Act, the right or title now held by the United States, or subject to disposition by the United States.

Subsection (b) provides that nothing in this Act shall affect any claim against the United States, nor shall be construed to affect the validity or invalidity of any such claim.

Subsection (c) provides that the State shall not impose any taxes on the property of the United States.

Section 206—Elections and Admission Referendum.—Subsection (a) provides that upon the certification that statehood has won a majority in the referendum, the Governor shall issue a proclamation for the election of United States Senators and Representatives, who shall be admitted to Congress, and the Office of the Resident Commissioner shall cease to exist upon the swearing in of the first Representative to the House. The subsection also provides for the separate identification of the two Senatorial offices.

Subsection (b) provides that these elections be conducted according to the laws of Puerto Rico and that the results be certified to the President of the United States. Paragraph (2) declares the name of the new state to be "The Commonwealth of Puerto Rico", and paragraph (3) provides that all persons holding government offices in Puerto Rico shall continue to discharge the duties of their office.

Section 207—Congressional Representation.—Provides that Puerto Rico, upon its admission, and until the next reapportionment, shall be entitled to such additional Representatives as would be provided based upon the 1990 census, and that the permanent membership of the House of Representatives is increased from 435 to accommodate the Representatives from Puerto Rico. The phrase "until the next reapportionment" is not intended to suggest that the House membership would return to 435 at the next reapportionment in 2002, but that Puerto Rico's number of Representatives may be adjusted based upon the 2000 census.

Section 208—Laws in Effect.—Subsection (a) provides for the continued effect of local and Federal laws upon admission except as modified by this Act, and, in the case of Federal law, except provisions of law which provide for grants or other assistance to states, units of local government, or individuals and for which Puerto Rico or its residents are either excluded or whose eligibility is less than that provided on a uniform basis to other states. This subsection also provides that provisions of Federal laws, other than those providing grants or assistance, which do not apply to Puerto Rico solely on the basis of geography, shall continue to not apply unless specifically extended by Congress.

The Committee is concerned that there may be examples in federal legislation where Congress has recognized the particular geographic conditions of Puerto Rico as an island in the Caribbean and taken those conditions into account. The Committee does not intend that this section should inadvertently extend mainland standards to Puerto Rico. The Committee is aware that there have been instances in which the remote and non-contiguous nature of Alaska and Hawaii have resulted in separate treatment, and intends that such treatment be continued for Puerto Rico under Statehood. The Committee believes that the Commission on Federal laws established under Subsection (b) will be able to provide the Congress with a list of those provisions which should be retained, and recommendations on amendments to Federal law which may be warranted.

Subsection (b) provides for the establishment of a Commission on Federal laws to survey the laws of the United States and make recommendations as to the applicability of such laws to the State. In making its recommendations the Commission will take into consideration the potential effect of each law on local conditions in Puerto Rico, the policies embodied in the law, and the provisions and purposes of this Title. The subsection also provides an authorization for appropriations for the Commission, the cost of which the United States will bear.

Section 209—Continuation of Suits.—Subsection (a) provides that no writ, action indictment, cause or proceeding pending in any Puerto Rico court will abate because of the admission of Puerto Rico, but shall proceed within the appropriate State courts. Subsection (b) provides that all civil causes and criminal offenses arising or committed prior to admission, but without a writ, action, indictment or proceeding pending upon admission, shall be subject to prosecution in the appropriate State courts or United States District Court. Subsection (b) also declares that the admission of the State shall have no effect on the procedural or substantive laws governing causes of action and criminal offenses and they shall be tried and punished by the appropriate courts.

Section 210—Appeals.—Provides that parties shall have the same rights of judicial review in cases decided prior to admission, and the United States Court of Appeals for the First Circuit and the Supreme Court of the United States shall have the same jurisdiction in such cases as provided by law prior to admission. This Section also provides that any mandate issued subsequent to admission shall be to the United States District Court for the District of Puerto Rico or the appropriate court of the State. Parties shall have the same rights of appeal and review of all action of the United States District Court for the District of Puerto Rico and the Supreme Court of Puerto Rico in any case pending at the time of admission and the Supreme Court of Puerto Rico and the Supreme Court of the United States shall have the same jurisdiction as provided by law in any case arising subsequent to admission.

Section 211—Military Lands.—Subsection (a) reaffirms the authority of the United States after admission to legislate over lands which immediately prior to admission are controlled or owned by the United States and held for defense or Coast Guard purposes. Subsection (b) states the right of Puerto Rico to serve civil or criminal process on such lands, and states that the reservation of authority to the United States does not prevent the lands from being part of Puerto Rico, or the State from exercising jurisdiction of the lands consistent with Federal law. Finally, Subsection (b) provides that this authority of the United States continues only so long as those lands involved are controlled by the United States and are used for defense or Coast Guard purposes, as may be determined by the President or Secretary of Defense.

Section 212—United States Nationality.—Provides that no provision of this Title shall confer, or terminate, or restore United States nationality.

Section 213—Economic Adjustment.—Contains provisions that are intended to effect a smooth and fair transition for the new State with a minimum of economic dislocation and permit federal agencies to assume or expand responsibilities for the administration and enforcement of federal taxes and programs affecting the citizens residing in the new State.

Subsection (a) provides that, effective on the date of admission of the State of Puerto Rico, all federal excise taxes not heretofore applicable to Puerto Rico are extended to Puerto Rico in the same manner as otherwise applicable in the several States.

Subsection (b) directs the heads of all federal agencies to examine the application of all programs within the jurisdiction of their respective agencies and, after consultation with the Governor of Puerto Rico, to recommend to the President, and to the commission established under section 208(b), what changes, if any, and what additional administrative requirements, if any, will be needed to properly achieve the application of federal laws in or to the new State with proper regard for the economic, geographic, and cultural circumstances of the new State.

Subsection (c) provides that, effective on the date of Admission of the State of Puerto Rico, all federal programs which provide assistance to or on behalf of individuals shall apply in Puerto Rico as they apply within the several States. It makes several exceptions: (1) reimbursements under Medicare shall not exceed the actual cost of providing equivalent health care to the levels of care provided in the several contiguous States; (2) the Secretary of Agriculture may, with the consent and agreement of the Governor of Puerto Rico, continue to obligate the amount of funds for which Puerto Rico becomes eligible under the Food Stamp program as a block grant rather than as coupons as a pilot program until October 1, 1997 unless otherwise provided by Congress; (3) solely for the purposes of transition and as a matter of administrative necessity, the Supplemental Security Income program shall not commence until January 1, 1994. Until such date, the present program for Aid to the Aged, Blind and Disabled is continued.

The Committee notes that this section is not optional, nor a matter of Committee generosity, nor an attempt to tilt the legislation toward statehood. This provision is Constitutionally required. The Committee has sought to delay only the application of SSI and only for administrative reasons. The Committee believes, based on the testimony received during hearings, that the delay is absolutely necessary to permit the Executive Branch, once the results of the referendum have been certified, to obtain the necessary budget authority and to be prepared for full application of the program beginning in 1994. The Committee is aware that the actual costs of each of the programs is uncertain due to the interrelationship between the programs in terms of income eligibility, and because it is unclear what decisions the new state government will make with respect to allocations of its resources. While application of these programs is required under Statehood, the Committee wishes to emphasize that there is nothing in the Constitution which prevents full application now to the Commonwealth.

Subsection (d) provides that the current tax treatment applicable to Puerto Rico is continued until January 1, 1994. Effective upon the certification of the results of the referendum, the Secretary of the Treasury shall consult with the Governor of Puerto Rico on the transition of the new State from a foreign tax jurisdiction. The Secretary is authorized, on a nonreimbursable basis, to provide such technical and other assistance as the Governor may require to reform the present revenue situation of Puerto Rico prior to January 1, 1994. The heads of all Federal agencies are directed to assist the Secretary and to provide such support as the Secretary may request. Effective January 1, 1994, the federal internal revenue laws shall apply within the State of Puerto Rico as within the several States subject to such transitional rules or other provisions as Congress may have enacted prior to such date. This subsection provides one specific transition provision: the credit previously allowed under Section 936 of the Internal Revenue Code with respect to income or investments from activity in Puerto Rico shall be reduced to 80 percent for taxable years beginning in 1994, 60 percent for taxable years beginning in 1995, 40 percent for taxable years beginning in 1996, 20 percent for taxable years beginning in 1997, and shall not be available with respect to such income or investments thereafter. Congress explicitly reserves authority to enact appropriate transitional rules regarding the implementation of the above credit reductions and the tax treatment of corporations with respect to which an election under Internal Revenue Code Section 936 is in effect during the transition period, and the Secretary of the Treasury is authorized to promulgate and implement such regulations as are necessary.

The Committee notes that this section is also Constitutionally required. While the current local income tax laws of Puerto Rico have the 1954 Federal Code as their base, they are sufficiently different that immediate application of the federal code would be unworkable. The Committee had expected that the Department of Treasury would have been more helpful to the Committee in designing an appropriate transition. The Committee agreed that new taxes should commence at the beginning of a taxable year and that Treasury would need lead time in order to properly administer and enforce the tax laws. The Committee understands that of all the provisions of the Statehood measure, this is perhaps the most difficult. A variety of transitional rules will be necessary, especially on the corporate level, to recognize the effect which separate tax status has had in Puerto Rico. There are firms in Puerto Rico which enjoy certain tax benefits under Puerto Rico's laws and which may have structured their investments and operations in response to these local tax laws. In these cases, some period of transition may be warranted. In addition, the current local taxes raise approximately $2 billion in local revenues. Careful coordination between the Federal Government and Puerto Rico will be needed so that the local government can make whatever tax law adjustments are needed, while maintaining necessary revenues. With respect to section 936, the Committee determined that a 5-year phase out of the credit was a reasonable transition to permit firms to adjust to the new tax situation. The Committee is aware that section 936 now has application to the Caribbean Basin Initiative and functions in some respects as an Enterprise Zone in the territories. Rather than attempting to draft a replacement for Section 936, the Committee chose to adopt a phase out with the expectation that the issue of section 936 and overall transitional requirements for application of the federal internal revenue laws would be addressed by the Finance and Ways and Means Committees in a manner which would best provide for a smooth transition for the new State.

Subsection (e) provides that the current payment provided by permanent indefinite appropriations of customs duties and equivalency payments on alcohol are continued as a Statehood grant. In addition, it provides that, until otherwise provided by law, all revenues derived from excise taxes which became applicable in Puerto Rico pursuant to subsection (a) of this section, or any new excise taxes which became applicable thereafter, shall be paid to the Treasury of Puerto Rico. As a Compact with the State of Puerto Rico, no alteration in the transfer of funds under this subsection may be made until after October 1, 1998. The prohibition under section 7652(d)(2) of the Internal Revenue Code shall apply to such funds. Finally, this subsection provides that, as a transitional Statehood grant to the new State to assist in maintenance of government services and to provide for maintenance of infrastructure, and to minimize the impact on local revenues from the transition from being a foreign tax jurisdiction, all revenues derived from the application of the federal internal revenue laws in 1994 and 1995 within the State of Puerto Rico shall be paid to the Treasury of Puerto Rico. The measure of the amount of income which is so derived will be determined according to such transitional rules or other provisions as Congress may have enacted prior to January 1, 1994.

The Committee prepared estimates of the spending and revenue impact of Section 213 which indicate that Federal spending would increase under statehood due to increases in various Federal programs such as Medicare, SSI, AFDC, Foster Care, and Food Stamps. The Department of Health and Human Services and the Department of Agriculture provided estimates of the increases in such programs that would occur in Fiscal Year 1992, assuming Puerto Rico achieved statehood in 1992. The Committee staff escalated these estimates at five percent per year and accounted for the provision in the bill that delays the expansion of SSI to Puerto Rico until 1994. The resulting estimates appear in the following table.

CHANGES IN NET SPENDING

										Total
Statehood:										
Change in spending	431	453	1,337	1,404	1,474	1,548	1,626	1,707	1,792	11,772
Increase in revenue	0	0	458	1,171	3,120	4,063	5,027	5,278	5,542	24,660
Net change in Federal spending	431	453	879	233	(1,646)	(2,515)	(3,401)	(3,572)	(3,750)	(12,887)

Note.—Spending excludes Social Security, Veterans Payments, Federal Retirement & Disability, Salaries & Wages, and Procurement. Includes all other payments to individuals and grants to government. Revenues are net of revenues returned to Puerto Rico, e.g., excise taxes and customs.

Federal revenues would increase under statehood due to the applicability of Federal internal revenue laws beginning in 1994. Personal and corporate income taxes would bring in substantial revenues as would the phase out of Section 936 benefits. The Department of Treasury provided estimates of the effect of these changes for the period 1992 to 1998. The Committee staff escalated these estimates at five percent per year for the period 1999 to 2000 and accounted for the provisions in the bill that cover over excise taxes to Puerto Rico until 1998 and cover over personal and corporate income taxes for the years 1992 and 1993. (These estimates assumed that the cover over of excise taxes would continue through 2000).

It should be emphasized that these estimates are very preliminary and are based on estimates provided by the Administration. The Committee has found no basis, however, on which to disagree with these Administration numbers. While some parties have argued that spending estimates are too low and revenue estimates are too high, others have argued that the opposite is true. For example, the Treasury estimates with respect to 936 revenues could be grossly low if certain sectors of the 936 economy are affected by a single patent or other intangible allocated to its Puerto Rico subsidiary, such as a serum for AIDS, or a medication for cancer. Also, growth in electronics and twin plants might result in Treasury's estimates being low. Federal spending estimates are uncertain and highly dependent on what a new Puerto Rican State government would decide regarding appropriate benefit levels for its residents. For example, maximum AFDC benefits for a four-person family in January, 1989 ranges from a low of $144 in Mississippi, to $899 in Alaska.

Another area of controversy is the Treasury estimates of the revenue increases that would arise from the phase-out of Section 936. This is a complicated problem and requires one to make informed judgments on questions such as: What factors led various firms to locate in Puerto Rico? How important are 936 benefits to their remaining in Puerto Rico? Which firms will remain in Puerto Rico? Which will move to the U.S. mainland? Which will move overseas? How will Federal revenues be affected under each of these three location decisions? The Committee notes that Treasury's assumptions on revenues do not require firms to remain in Puerto Rico after 936 is eliminated. Treasury simply assumes that the economic activity will continue and will therefore be subject to U.S. tax.

While economic projections are inherently "soft", projections involving a change in political status are even more so. The ecomony of Puerto Rico is tied to the economy of the United States. Projections made by GAO based on 1983 data assumed an unemployment rate of 23.5% while actual unemployment in 1988 was 15.9 percent. Advocates of Statehood have argued that Statehood would lead to a more robust economy. If so, projections on federal assistance costs are likely to be too high and revenue estimates will be too low. Conversely, a downturn in the U.S. economy could alter even those projections. In addition, the actual program costs and revenue collections will be affected by future actions by the Congress with respect to levels of benefits under the programs and changes in the tax code. While it is unreasonable to assume that there will be no changes, it is even more unreasonable to make assumptions as to what those changes will be. For any scenario which would alter the assumptions made by the Administration the Committee can offer an equally likely scenario with the opposite effect.

The Committee has adopted the Treasury figures as the best available estimates of revenue changes at this time. It is expected that both spending and revenue estimates will be refined as the bill moves forward in the legislative process. It is the Committee's intent that this section provide guidelines for further consideration of these economic issues, as earlier described in the "Committee Amendment" portion of this report.

Another issue of controversy is whether or not section 213 is constitutional because it does not immediately and fully apply Federal taxes and programs and may thus be in violation of the uniformity clause of the constitution. The Committee disagrees with this view and believes Congress has substantial authority under the territorial and statehood clauses of the Constitution to provide for nonidentical economic treatment under statehood if such treatment is reasonable, transitional, and necessary. The provisions of Section 213 are not only reasonable, but necessary in order to provide: Federal agencies the time needed to implement certain new taxes and social programs in Puerto Rico, Puerto Rico with the time needed to modify local tax and social program laws, and to avoid extremely serious disruptions to the economy of Puerto Rico during the transition from commonwealth status to statehood. The Committee agrees that based on the Treasury estimates, Statehood would, in the long run, be a net benefit to the Federal treasury over the costs of continued Commonwealth.

TITLE III—INDEPENDENCE

Section 301—Constitutional Convention.—Provides in subsection (a) for the election of delegates, within 6 months of the referendum, to a Constitutional Convention to serve until the proclamation of independence and to draft a Constitution for the Republic of Puerto Rico.

Subsection (b) sets forth the qualifications for those voting for the election of delegates to the Constitutional Convention to include (1) all persons born and residing in Puerto Rico; (2) all persons residing in Puerto Rico and who have one parent born in Puerto Rico; (3) all persons who at the time of enactment of this Act have resided in Puerto Rico for 25 years or more; (4) all persons who established their residence in Puerto Rico prior to attaining voting age and still reside in Puerto Rico; and (5) the spouses of all the above. The purpose of this subsection is to secure the participation of only those persons who have demonstrated a desire to be a part of the Puerto Rican community. While such restrictions on the right to vote may be argued to be inconsistent with the equal protection provisions of the constitution, the circumstances in this case are unprecedented. This would be an election for the development of a constitution to take effect after the termination of U.S. sovereignty. The protections of the U.S. Constitution are inapplicable to the process of developing the constitution of a nascent foreign nation, and the procedures for the development of the constitution are the initial exercises of sovereignty of that new nation. The Congress is authorized to enact such restrictions on voter qualifications pursuant to the territorial clause of the U.S. Constitution, (Article 4, Section 3, paragraph 2) which empowers the Congress to dispose of U.S. territory, including through the development of a process of transition towards eventual independence. These provisions should be viewed as an initial withdrawal of U.S.

sovereignty to the extent necessary to permit the development of a new constitution.

Subsection (c) provides that the laws of Puerto Rico relating to additional voter qualifications and the electoral process shall apply to this election.

Subsection (d) provides that the Constitutional Convention shall meet within 3 months of the election of the delegates at such time and place as the Legislative Assembly shall determine.

Subsection (e) provides that the Convention shall exercise jurisdiction over the territory of Puerto Rico ceded to the United States by Spain under the terms of the Treaty of Paris in 1898.

Section 302—Character of the Constitution.—Provides in Subsection (a) that the Constitutional Convention shall formulate and draft a constitution establishing a republican form of government which shall guarantee fundamental human rights.

Subsection (b) sets forth those fundamental rights as due process, equal protection, speech, press, assembly, association, religion, as well as the rights of the accused, and economic, social and cultural rights such as the right to education, nutrition, health services, housing, employment and the right to own property and to just compensation for the taking thereof.

Subsection (c) provides that the property rights of the United States and Puerto Rico shall be promptly adjusted and settled, and all existing property rights of citizens or corporations of the U.S. shall be respected and safeguarded as are the property rights of citizens of Puerto Rico.

Section 303—Ratification of the Constitution.—Provides in subsection (a) that the Constitution shall be submitted to the people for ratification or rejection.

Subsection (b) requires that the Legislative Assembly shall call a special election within 3 months of the Convention adopting the Constitution for the purpose of ratification.

Subsection (c) provides that the election shall be held in a manner prescribed by the Legislative Assembly, and in the event the constitution is not approved, it shall be resubmitted to the Constitutional Convention for further consideration and resubmission to the voters.

Subsection (d) provides that those qualified to vote in this election are those qualified pursuant to section 301(b).

Section 304—Election of the Officers of the Republic.—Provides in subsection (a) that within 30 days of ratification of the Constitution the Governor shall issue a proclamation calling for the election of such officers as required by the Constitution.

Subsection (b) provides that such election shall be not later than six months after ratification.

Subsection (c) provides that such election shall be held in accordance with the requirements of the new Constitution.

Subsection (d) provides that the Governor shall certify the results of the election to the President of the United States.

Section 305—Joint Transition Commission.—Provides in subsection (a) for the establishment of a Joint Transition Commission with members to be appointed in equal numbers by the President of the United States and the Presiding Officer of the Constitutional Convention of Puerto Rico.

Subsection (b) sets forth the responsibilities of the Commission as expediting the orderly transfer of all functions currently exercised by the Government of the United States in Puerto Rico, including the recommendation of the enactment of legislation by either government.

Subsection (c) provides that any necessary task forces established by the Commission shall be constituted in the same manner as the Commission. It is noted that this Title specifically calls for the establishment of several task forces. However, this is not intended to be exclusive, and the Commission may wish to establish additional task forces, for example, for dispute resolution, or establish sub-task-forces for particularly complex tasks such as transition for Federal programs.

Subsection (d) requires that the governments of Puerto Rico and the United States cooperate with the Commission and the new officers of the Republic of Puerto Rico to provide for the orderly transfer of the functions of government.

Subsection (e) provides that the costs of the Commission shall be evenly divided between the United States and Puerto Rico, and authorizes appropriations as are necessary. This subsection also directs agencies of the United States Government to provide technical assistance to the Commission on a reimbursable basis.

Section 306—Resolution of Controversies Prior to Independence.—Provides that except as provided in Title I, and beginning on the date of certification of the results of the referendum and until the date of the proclamation of independence, any action arising from this Title filed in courts of the United States shall be stayed and referred to the Commission for resolution within a reasonable period of time.

Section 307—Proclamations by the President of the United States and the Head of State of the Republic of Puerto Rico.—Provides in subsection (a) that not later than one month after the certification of the election of the officers of the Republic of Puerto Rico and the approval of the agreements set forth in sections 312 and 313, the President of the United States shall by proclamation withdraw and surrender all rights exercised by the United States over the territory and people of Puerto Rico and shall recognize the independence of Puerto Rico and the authority of the new government. The proclamation shall state that the effective date of the withdrawal of sovereignty and the recognition of independence shall be the date of the proclamation of independence.

Subsection (b) requires the President to forward a copy of this proclamation to the presiding officer of the Constitutional Convention within one week of signature.

Subsection (c) requires the presiding officer, within one week of receiving the presidential proclamation, and with the advice of the officer elected to be the head of state, to determine the date in which the new Government of the Republic shall take office, and so shall notify the Governor of Puerto Rico and the President of the United States.

Subsection (d) provides that, upon taking office, the head of state of the Republic shall immediately issue a proclamation declaring that Puerto Rico has become (1) a sovereign, independent nation; (2) that the constitution is in effect; (3) that the Commonwealth of

Puerto Rico and its Government have ceased to exist; and (4) that the Government of the Republic will henceforth exercise its powers and duties under its Constitution.

Section 308—Effects of the Proclamation of Independence on Legal and Constitutional Provisions.—Provides that upon the proclamation of independence, and except as otherwise provided by this Title or in any agreement concluded between the United States and Puerto Rico (1) all property rights and interests of the United States in Puerto Rico shall vest in the Republic of Puerto Rico; (2) all laws of the United States applicable to Puerto Rico immediately prior to independence shall no longer apply; and (3) all laws and regulations of the Commonwealth of Puerto Rico in force immediately prior to independence shall continue in force and shall be read with such modifications as may be necessary to bring them into conformity with the constitution of the Republic of Puerto Rico until they are replaced with new legislation: Provided, that any provisions incompatible with the sovereignty of the Republic shall be deemed invalid.

Section 309—Effects of the Proclamation of Independence on Judicial Pronouncements.—Provides that, unless otherwise agreed by the United States and the Republic of Puerto Rico: (a) the Republic of Puerto Rico shall recognize and give effect to all orders and judgments rendered by United States or Commonwealth courts prior to the proclamation of independence, (b) all pending judicial proceedings in the courts of the Commonwealth prior to the proclamation of independence shall be continued in the corresponding courts of the Republic of Puerto Rico, and (c) upon the proclamation of independence the judicial power of the United States shall no longer extend to Puerto Rico. All proceedings pending in the United States District Court for the District of Puerto Rico shall be transferred to the corresponding Puerto Rico courts for disposition in conformity with the laws applicable at the time the controversy arose. All proceedings in the United States Court of Appeals for the First Circuit, or in the United States Supreme Court shall continue until final disposition and shall be submitted to the competent authority in either the Republic of Puerto Rico, or the United States, for proper execution.

Section 310—State Succession.—Provides in subsection (a) that the Government of the Republic of Puerto Rico shall be deemed successor to the Government of the Commonwealth of Puerto Rico.

Subsection (b) requires that the President, upon the proclamation of independence, shall notify other nations, the United Nations and the Organization of American States that the U.S. has recognized the independence of Puerto Rico and that all obligations of the United States which arise from any treaties affecting Puerto Rico, shall cease, provided such obligations may be assumed by the Republic of Puerto Rico in a manner to be determined by Puerto Rico.

Section 311—Citizenship and Migration.—Provides in subsection (a) that Puerto Rican citizenship shall be regulated by the laws of Puerto Rico.

Subsection (b) provides that, upon the certification that independence has received a majority in the referendum, Puerto Rico shall no longer be deemed to be a part of the United States for the purposes of acquiring citizenship of the United States by place of birth and that those laws declaring Puerto Rico to be a part of the United States for those purposes, are repealed or modified. Subsection (b) also declares that nothing in this section shall affect the citizenship of any person born prior to the date of certification.

Subsection (c) provides that no person born outside of the United States after the proclamation of independence shall be a citizen of the United States at birth if the parents of such person acquired citizenship in the United States solely by virtue of being born in Puerto Rico prior to the proclamation. This subsection is intended to terminate the extension of United States citizenship to persons born in Puerto Rico following a referendum result that would initiate independence.

Subsection (d) provides that certain citizens of the Republic of Puerto Rico, not including those who have not been actual residents of Puerto Rico for at least five years, may enter into the United States for a period of 25 years after the proclamation of independence provided that such persons would not have the right to establish residence in the U.S. for the purpose of naturalization. Such persons would, however, be able to otherwise acquire such rights or permanent resident alien status. This subsection is intended to continue the close relationship existing between Puerto Rico and the United States by granting special immigration consideration to the generation of Puerto Ricans born after independence and whose parents are likely to be U.S. citizens, for the purpose of obtaining education or employment in the United States.

Section 312—Defense.—Provides in Subsection (a) that specific defense arrangements shall be negotiated, and approved in accordance with the constitutional processes of the United States and Puerto Rico, and shall come into effect simultaneously with the proclamation of independence. These arrangements shall include: (1) operating rights and status of forces agreements providing for continued unrestricted use and unrestricted access, by the United States, to military installations and facilities, and Coast Guard facilities in Puerto Rico, to the same extent and manner of use and access as existed prior to the referendum.

The specific details of the use and access arrangements to the following military installations and facilities, as specifically described in property records of the United States Department of Defense, would be subject to negotiation by the United States and Puerto Rico:

Roosevelt Roads Naval Complex, including its Naval Station, Naval Training Station and Naval Communications Station with its transmitter, receiver and relay sites;
Vieques Island facilities;
Sabana Seca Naval Security Group;
Punta Borinquen Radar Site;
Punta Salinas Radar Site;
Access to San Juan International Airport, Munoz Air National Guard Base;
Access to Boriquen International Airport; and
Use of Camp Santiago Training Area;

(2) an agreement to deny third countries any access to or use of the territory of Puerto Rico for military purposes, except as specifically authorized by the United States. This agreement shall make

explicitly clear that the United States shall have the right to determine what constitutes "access or use of the territory of Puerto Rico for military purposes" by third countries; and (3) an agreement by Puerto Rico that the foregoing conditions will remain in effect until terminated or otherwise amended by mutual consent. However, either nation may request negotiations at any time.

Subsection (b) requires that any consent by the United States to any change in the agreement regarding the denial of the territory of Puerto Rico to third nations for military purposes, must be specifically authorized by an Act of Congress.

The Committee did not include statutory language requiring the Government of Puerto Rico to agree to provide such additional property and facilities as may be determined in the future by the Government of the United States to be needed for military purposes. The provision of such additional property would be subject to future negotiation between the Government of Puerto Rico and the Government of the United States and would be provided on mutually acceptable terms and conditions.

Section 313—Federal Programs.—Is enacted in recognition of the unique relationship between the United States and Puerto Rico, to affect a smooth and fair transition for the new Republic of Puerto Rico with a minimum of economic disruption, and to promote the development of a viable economy in the new Republic of Puerto Rico. As with Section 312, Section 307(a) requires that certain specific economic agreements shall be negotiated, and approved in accordance with the constitutional processes of the United States and Puerto Rico, and shall come into effect simultaneously with the proclamation of independence.

Subsection (a) provides that all federal programs shall continue to apply in Puerto Rico until the end of the fiscal year in which independence is proclaimed, at which time, a grant shall be paid to the Republic of Puerto Rico pursuant to subsection (b)(3).

Subsection (b) provides that specific arrangements for the continuation or phase-out of federal programs shall be negotiated by a Task Force on Economic Assistance established by the Joint Transition Commission and approved in accordance with the constitutional processes of Puerto Rico and the United States, and shall come into effect simultaneously with the proclamation of independence. In general, the specific arrangements shall provide that: (1) All federal pension programs, such as veterans and civil service benefits, shall continue as provided by United States law; (2) Prior to the end of the fiscal year in which independence is proclaimed, an estimate will be determined by the Comptroller General of the United States of the total amount of grants, programs and services, including Medicare, provided by the Federal Government in Puerto Rico in such fiscal year, except for those grants, programs and services which will otherwise continue under this Act; (3) A grant equal to the amount established under paragraph (2) shall be paid annually to the Republic of Puerto Rico beginning in the fiscal year following the year in which independence is proclaimed through the ninth year following the certification of the referendum. It is not required that all United States aid would cease at the end of the ninth full fiscal year, but future aid would be subject to negotiation and to action by Congress. The Committee expects the relationship between the United States and the Republic of Puerto Rico to be friendly and established on a history of very close relations and mutual interests; (4) The United States will fulfill any contractual obligations outstanding at the time of the proclamation of independence; and (5) Puerto Rico may request that the United States renew or continue any existing contractual obligations, provided that Puerto Rico agrees that the cost of such renewal or continuation shall be deducted from the annual grant made under paragraph (3).

Subsection (c) provides an authorization for appropriations as may be necessary to fulfill the purposes of this section.

The Committee staff prepared estimates of the spending and revenue impact of Section 313. Federal spending would decrease under independence due the bill's provision that various Federal programs such as Medicare, SSI, AFDC, Foster Care, and Food Stamps would be converted into a single block grant upon independence. The amount of that grant would remain the same (i.e., constant in nominal terms). In contrast, under Commonwealth, the spending under those programs would grow with inflation and any increases in the number of beneficiaries. The Office of Management and Budget provided estimates of the level of spending for such programs in Fiscal Year 1988. These estimates were escalated at five percent per year and assumed that independence would take effect in 1995. The resulting estimates of changes in Federal spending appear in the table below. The creation of a block grant in 1995 leads to spending decreases in 1996 and beyond as the grant remains constant in nominal terms.

Federal revenues would increase under independence due to the phase out of Section 936 benefits and increased collections of the rum excise tax. The Department of Treasury provided estimates of the effect of these changes for the period 1992 to 1998. These estimates were escalated at five percent per year for the period 1999 to 2000. The resulting estimates also appear in the table below, along with the net change in Federal spending.

It should be emphasized once again that these estimates are very preliminary and are based on estimates provided by the Administration. The earlier discussion, on Section 213, of the uncertainties surrounding the estimates applies here as well. As in the case of Section 213, the Committee has adopted the Treasury figures as the best available estimates of revenue changes at this time. Both spending and revenue estimates will undoubtedly be refined as the bill moves forward.

										Total
Independence:										
Change in spending	0	0	0	0	(213)	(437)	(672)	(919)	(1,178)	(3,420)
Increase in revenue	0	0	0	2,889	3,261	3,531	3,548	3,725	3,911	20,864
Net change in Federal spending	0	0	0	(2,889)	(3,474)	(3,968)	(4,220)	(4,644)	(5,089)	(24,284)

Note.—Spending excludes Social Security, Veterans Payments, Federal Retirement & Disability, Salaries & Wages, and Procurement. Includes all other payments to individuals and grants to government.

The Committee notes that under Independence, unlike Statehood, the section 936 credit would likely be replaced by a foreign tax credit.

Section 314—Social Security.—Provides in subsection (a) for a Task Force on Social Security to negotiate agreements necessary to protect the rights of workers who have permanently insured status under the Social Security Act as of 5 years subsequent to certification of the referendum, and to coordinate the Social Security System of the United States with a similar system to be established in the new Republic of Puerto Rico.

Subsection (b) provides that, in order to allow adequate time for the negotiation and implementation of these agreements, the current provisions of the Social Security Act shall apply for 5 years subsequent to the certification of the referendum. This section contemplates a transfer of resources to Puerto Rico to assist in the establishment of a local system of similar nature. It is intended that such a grant be estimated based on the value of contributions paid, plus interest, by residents of Puerto Rico who will not have achieved permanently insured status as of 5 years subsequent to the certification of the referendum. The agreements under this subsection shall provide, upon a transfer of resources, for the extinquishment of the rights of recipients and the obligations of the United States to those recipients.

The transition from the current system to a new system would guarantee that current beneficiaries would continue to receive full benefits until the normal expiration of such benefits. This might entail a transition cost, since current contributions by Puerto Ricans to the present system are less than the current benefits. However, such cost is consistent with the overarching legislative purpose of gradually reducing Puerto Rico's dependence on the United States, particularly in light of the fact that current beneficiaries have made lifetime contributions to the system, and in light of the fact that any transition cost would be temporary. The Task Force established by the Joint Transition Commission on Social Security would select among various possible alternatives to provide such guarantees, so that Puerto Rico could establish and operate a financially sound social insurance system for the protection of future generations of its citizens.

Section 315—Medicare.—Provides for the establishment of a Task Force on Medicare to negotiate agreements for the coordination of the Medicare system with a similar system in the new Republic of Puerto Rico, and for the approval of such agreements in accordance with the constitutional processes of Puerto Rico and the United States.

Section 316—Trade Relations.—Provides in subsection (a) that trade relations between the United States and Puerto Rico shall continue as currently provided by law until the proclamation of independence.

Subsection (b) provides for the establishment of a Task Force on Trade to consider and develop specific provisions between the United States and Puerto Rico following independence. This subsection also includes an expression of Congress' willingness to consider a mutual free trade arrangement if negotiated. In this case "free-trade" does not mean that there would be open trade of all goods between the two nations, but that to the extent there are limitations on imports or exports, those limitations would be as mutually agreed and would, overall, provide mutual benefits to each nation and would assist each in meeting its trade and economic development objectives. This subsection also provides that, in the absence of such an agreement, Puerto Rico shall be afforded most favored nation status, and provided that Puerto Rico meets the requirements under the Caribbean Basin Economic Recovery Act, designation as a beneficiary under the Caribbean Basin Initiative.

Subsection (c) provides that the President is encouraged to seek to obtain favorable tariff treatment for exports from Puerto Rico from other nations, and to encourage other countries to designate Puerto Rico as a beneficiary under their respective General Systems of Trade Preferences.

Section 317—Taxation.—Provides in subsection (a) that effective on the date of proclamation of independence, the tax credit allowed under Section 936 shall no longer be available with respect to investment activity in Puerto Rico. This subsection is in response to concerns of the Department of Treasury that extension of Section 936 to an independent Puerto Rico might trigger "most-favored" clauses in tax treaties with other nations and would thus require Section 936 to be extended to them. However, the Committee notes that Section 936 is continued to the Freely Associated States of Micronesia and this has not posed problems with respect to "most-favored" clauses in tax treaties. The Freely Associated States, while fully sovereign, are not independent and while under free association are eligible to participate in many federal programs as though they were a part of the United States. Puerto Rico, on the other hand, would be fully independent. The State Department testified that a reasonable phase-out of Section 936 would not likely raise objections from other nations because such a transitional situation was not contemplated under any previously negotiated tax treaties.

The Finance and Ways and Means Committees will also consider these provisions. Much as under the Statehood option, it may be that the Tax Committees, after reviewing the objectives of this provision with the Administration, will recommend a different approach. The Committee notes that it is likely that firms in Puerto Rico will be able to use the foreign tax credit in lieu of section 936.

Subsection (b) provides for the establishment of a Task Force on Taxation to negotiate appropriate tax treaties to govern relations between the United States and Puerto Rico. This would allow Puerto Rico to obtain the same beneficial treatment granted to other foreign nations under treaties currently in force with the United States.

Section 318—Currency and Finance.—Provides in subsection (a) for the establishment of a Task Force on Currency and Finance to negotiate an agreement to assist the Republic of Puerto Rico in the design and establishment of a deposit insurance system to determine the extent of financial support to be provided by the United States and to make the necessary arrangements with respect to the use of United States currency by Puerto Rico, if so requested.

Subsection (b) provides that United States guarantees to investors in the secondary market for existing loans, shall be maintained for Puerto Rico-originated loans existing on the date of the proclamation of independence until maturity.

Section 319—Public Debt.—States that all valid and outstanding debts of the Commonwealth of Puerto Rico shall be assumed by the Republic of Puerto Rico, and that the tax treatment of any such obligations shall be unaffected by the proclamation of independence to the extent that similar obligations issued by states are so treated.

TITLE IV—COMMONWEALTH

Section 401 provides for implementation of this Title should Commonwealth be certified as having obtained a majority of the votes cast in the referendum.

Section 402—Principles of Commonwealth.—States, in subsection (a), that Puerto Rico is a self-governing body politic joined in political relationship with the United States and under the sovereignty of the United States. This subsection maintains the sphere of self-government the people of Puerto Rico have enjoyed since 1952 and that has been recognized by the United Nations, and contemplates the strengthening of this relationship. The establishment of the Commonwealth pursuant to Public Law 600 defined a sphere for the exercise of self-government over matters of purely local concern by the Government of Puerto Rico in accordance with a constitution approved by the people of Puerto Rico. This subsection is not intended to expand or diminish that sphere. This title is intended to improve the relationship between the Federal government and Puerto Rico. This section also recognizes that the commonwealth relationship is permanent and will not be revoked without the consent of the people of Puerto Rico.

Subsection (b) declares that the policy of the United States shall be to enhance the Commonwealth relationship enjoyed by the Commonwealth of Puerto Rico and the United States Federal Government to enable the people of Puerto Rico to accelerate their economic and social development, to attain maximum cultural autonomy, and in federal legislative and administrative action to take into account local conditions in Puerto Rico. The two following sections of this Title, Sections 403 and 404, provide mechanisms for the implementation of this policy.

Section 403—Application of Federal Law—Provides in subsection (a) that the Governor of Puerto Rico may certify to Congress that the legislature of Puerto Rico has adopted a resolution that states that a Federal law, or provision thereof, should no longer apply to Puerto Rico because there is no overriding national interest in such applicability and it does not serve the interests of Puerto Rico. A Federal law, or laws, or provision thereof, so certified shall no longer apply to Puerto Rico if a joint resolution approving the recommendation of the Government of Puerto Rico is enacted.

Subsection (b)—Expedited Congressional Review.—Sets forth the procedures for the expedited congressional review of the recommendation of the Government of Puerto Rico that a Federal law should no longer apply in Puerto Rico.

Paragraph (1)—Congressional Rulemaking.—States that this subsection is enacted as an exercise of the rulemaking power of the

Senate and the House of Representatives, and as such is deemed to be a part of the rules of each House but applicable only to the procedures to be followed in this subsection and it supercedes other rules only to the extent of inconsistencies.

Paragraph (2)—Resolution.—States that for this paragraph the term "resolution" means a joint resolution and sets forth the matter after the resolving clause. Paragraph (2) further provides that such resolution shall include the certification by the Governor and a copy of the resolution adopted by the legislature of Puerto Rico.

Paragraph (3)—Referral.—Provides that the resolution shall be referred to the House Committee on Interior and Insular Affairs and to the Senate Committee on Energy and Natural Resources and to any other committees as the House Speaker and Senate President shall determine.

Paragraph (4)—Discharge.—Provides that if the committee or committees have not reported the resolution at the end of 45 calendar days, then it shall be in order to discharge the Committee from further consideration. Paragraph (4) further provides that a motion to discharge may only be made by an individual favoring the resolution and shall be highly privileged and debate limited to not more than one hour, equally divided. Amendments to the motion shall not be in order, nor shall it be in order to reconsider the vote. Finally, paragraph (4) provides that if the motion to discharge is agreed or disagreed to, the motion may not be renewed, nor may another motion to discharge be made with respect to any other resolution regarding the same submittal.

Paragraph (5)—Floor Consideration.—Provides that when the last committee has reported or been discharged, it shall be in order to move to proceed to the consideration of the resolution. Such motion shall be highly privileged and not debatable. Amendments to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion was agreed or disagreed to. Paragraph (5) also provides that debate on the resolution shall be limited to not more than 10 hours, equally divided; a motion to further limit debate shall not be in order; and it shall not be in order to move to reconsider the vote by which the resolution was agreed or disagreed to.

Paragraph (6)—Determinations on Motions.—Provides that motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution and motions to proceed to other business, shall be decided without debate. Paragraph (6) also provides that appeals from the decision of the Chair relating to the application of the rules of the Senate or House shall be decided without debate.

Paragraph (7)—Subsequent Action.—States that notwithstanding any provisions of this subsection, if either House has approved a resolution regarding this submittal, then it shall not be in order to consider in that House any other resolution regarding the same submittal.

Paragraph (8)—Computation of Period.—Provides that for the purpose of this subsection; continuity of session is broken only by adjournment sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

Subsection (c) provides that this section shall not apply to any Federal law, or provision thereof, establishing directly or indirectly grants and/or services to individual citizens; relating to citizenship; or, pertaining to foreign relations, defense or national security.

Subsection (d) provides that the Governor of Puerto Rico may enter into international agreements to promote the international interests of Puerto Rico as authorized by the President of the United States consistent with the laws and international obligations of the United States.

Section 404—Regulatory Review.—Sets forth procedures so that the Governor of Puerto Rico may require the review of regulations which apply to Puerto Rico but which the Governor determines are inconsistent with the Federal policy stated in Section 402.

Subsection (a) establishes that the definitions of Title 5 U.S.C., Section 551, regarding Federal rule making shall apply to this section.

Subsection (b) requires that all agencies shall be guided by the policy stated in Section 402 when carrying out their duties in or affecting Puerto Rico, and when engaging in rule making pursuant to 5 U.S.C., section 553, the agency shall include in the general statement of the basis and purpose of any final rule, the views or arguments submitted to the agency that raise a question of the consistency of such rules with such policy. The word "duties" in this subsection refers to any official agency action authorized by statute or rule. Also, under this subsection, a proposed rule which is applicable to Puerto Rico must be tested by the agency for consistency with the policy of Section 402(b). The second sentence of this subsection refers to rulemaking under the Administrative Procedure Act. This modifies current law, which does not require an agency to provide reasons for not responding to certain objections to a proposed rule when it adopts a final rule.

Subsection (c) provides that when an agency publishes a final rule that applies in Puerto Rico, the Governor may submit to the agency the Governor's determinatin that such rule is inconsistent with the policy, and how it could be made consistent. The agency shall reconsider the question of consistency and within 45 days publish its finding that either (1) by the terms of the statute pursuant to which the rule is made the agency has no discretion to make the rule inapplicable, or vary its terms, in Puerto Rico; or, there is a national interest that the rule be applicable in Puerto Rico; or (2) the rule is not consistent with such policy and it shall not be applicable or shall be applicable only in accordance with terms specified in the agency's finding.

Subsection (c) further provides that within 60 days of the publication of the agency finding provided under "(1)" above, the Governor may petition for review in the United States Court of Appeals of the First Circuit or the D.C. Circuit. The scope of any such review shall be as prescribed in 5 U.S.C. 706. Federal courts shall have no jurisdiction to entertain actions brought by any party other than the Governor of Puerto Rico.

Section 405—Aviation.—Provides that the officials of the Department of State and the Department of Transportation shall seek the advice of appropriate officials of Puerto Rico when negotiating any air transportation agreements which would affect air traffic to or from Puerto Rico.

The Committee appreciates the importance of air transportation to Puerto Rico and intends that the responsible Federal agencies will work closely with officials of Puerto Rico and will respond to their concerns as much as possible.

Section 406—International Trade.—Would under subsection (a), amend the Act of April 12, 1900, (48 U.S.C. 739) to authorize Puerto Rico, as strictly limited by the international obligations of the United States, to impose tariff duties on foreign origin products imported into Puerto Rico from outside the customs territory of the United States. Such tariff duties may be in addition to the general tariff duties imposed by the United States if such general tariff duties are not subject to U.S. international obligations, or in cases where the duty is applied at a rate below that which is subject to U.S. international obligations, then the combined duties shall not exceed the level of the U.S. international obligation.

Subsection (b) would amend the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2902) to state that it is the sense of the Senate that the President should consider the effect of any proposed tariff rate or any proposed changes in non-tariff measures on the economy of Puerto Rico and should consult with the Governor of Puerto Rico concerning the potential effect prior to concluding international trade negotiations. The amendment would also state that it is the sense of the Senate that the President should seek to obtain favorable treatment from foreign countries for exports from Puerto Rico and should take steps to encourage other countries to consider Puerto Rico as a developing area for purposes of their respective Generalized Systems of Trade Preferences schemes, and any such regional systems of trade preferences.

Section 407—Federal Programs Consolidation of Grant-in-Aid Programs.—Would amend Public Law 95-134 to provide Puerto Rico with the same grant consolidation and matching grant waiver consideration as is provided to the other territories and commonwealths of the United States. This law, as amended, authorizes Federal agencies to consolidate their grants to these insular governments upon the request of the government. In the case of the Department of the Interior, such consolidation is mandatory. In addition, P.L. 95-134 waives the local grant matching requirements when it totals less than $200,000.

Section 408—Consultation in Appointments and Nominations.—Requires in subsection (a) that the head of the Department or agency making appointments of certain persons to serve in Puerto Rico shall consult with the Governor of Puerto Rico, or other appropriate official in Puerto Rico, prior to such appointment, as to whether there are special circumstances or qualifications which should be considered in making the appointment.

Subsection (b) requires that the President shall consult with the Governor of Puerto Rico prior to making a nomination of a person to serve in Puerto Rico and whose appointment requires the advise and consent of the Senate, as to whether there are special circumstances or qualifications which should be considered in deciding on the nomination. This section does not require or prohibit the disclosure of individuals under consideration for such position nor does it limit the ability of heads of agencies or the President to nominate or appoint any individual. Also, this section does not apply with respect to any position in the Armed Forces of the United States, the Coast Guard, and in law enforcement agencies.

Section 409—Puerto Rico Liaison Officer.—Establishes the Office of Senate Liaison for Puerto Rico in subsection (a). The Office shall be headed by an individual appointed by the Governor, who shall serve at the pleasure of the Governor, and who shall be known as the Puerto Rico Liaison. The purpose of the Office shall be to facilitate the exchange of information between the Senate and the Government of Puerto Rico and to provide a presence, or point of contact, in the Senate.

Subsection (b) provides that the Committee on Rules and Administration shall determine what facilities and services shall be available to the Office. All personnel of such Office shall be issued such identification as will entitle them to the same privileges as are afforded to the employees of the Congressional Research Service and no employee of the Office shall be permitted privilege of the Senate floor.

Subsection (c) authorizes the appropriation of $600,000 annually for salaries and $56,000 for expenses of the Office. The Liaison shall appoint and fix the compensation of Office personnel, and all personnel, while not employees of the Senate, shall, except as provided in subsection (b), be treated as if they were employees of the Senate regarding pay, benefits, rights, privileges and restrictions and shall be subject to all requirements otherwise applicable to Senate employees.

Subsection (d) provides that the Office shall be subject to the jurisdiction of the Committee on Rules and Administration.

Section 410—Passports.—Would, under subsection (a) amend Title 22 U.S.C. Section 211b to require the Secretary of State to establish a Passport Office in San Juan, Puerto Rico.

Subsection (b) requires that the Secretary of State and the Attorney General must consult with the Governor of Puerto Rico to determine what administrative actions can be taken to expedite the processing of visas needed by an individual or individuals invited by the Governor to visit Puerto Rico. This subsection requires a report to Congress on such consultations and administrative action by March 15, 1990.

Section 411—Community Values.—Would amend the Clayton Act (15 U.S.C. 12) and the Federal Trade Commission Act (15 U.S.C. 45) to suspend application of the antitrust laws to any action among persons in the television industry for the purpose of, and limited to, developing and disseminating voluntary guidelines designed to alleviate the negative impact of: violence, illegal drug use, and sexually explicit material in telecast material; and to promote local programming in Puerto Rico.

Subsection (c) limits the inapplicability of the antitrust laws so as not to apply to any action which results in a boycott of any person, and limits the term of the provision to activities conducted within 36 months after enactment, but may be extended for other 36 month periods upon declaration of the Governor.

This section closely conforms to the provisions of Senate passed bill S. 593, except for the objective of promoting local programming, and the authority of the Governor to extend the provisions beyond 36 months.

Section 412—Federal Properties.—Requires the President to report to Congress by March 15, 1990 on eight listed Federal properties, including an assessment of the Federal need for each property, the costs and/or benefits of disposal, and the comments of the Government of Puerto Rico regarding each property. The Section further provides that unless the President finds there is a national interest which requires continued Federal ownership of each property, then he shall provide for the transfer of the property to Puerto Rico according to such terms as he determines appropriate with respect to each.

Section 413—San Juan National Historic Site Advisory Commission—Establishes in subsection (a) a commission which shall regularly advise the Secretary of the Interior on the operation, management and administration of the San Juan National Historic Site.

Subsection (b) provides that the commission shall consist of the Governor, or his designee, the Director of the National Park Service, or the Director's designee, three members to be appointed by each the Governor and the Secretary with one of the members appointed by each to serve as co-chairpersons of the commission.

Subsection (c) sets forth the terms of members, how vacancies shall be filled, the payment of expenses, the requirements for quorum and voting by the commission, and provides that Section 14(b) of the Federal Advisory Committee Act is waived with respect to this commission.

Subsection (d) requires that the Secretary shall from time to time, but at least annually, meet with the commission regarding the planning, management and administration of the site. Such meetings shall be open to the public and in such places as to encourage public participation, and adequate notice of such hearings shall be provided.

Finally, subsection (e) requires that the commission shall annually prepare and transmit a report to the appropriate House and Senate Committees containing information and recommendations on the operation, management and administration of the site, including recommendations regarding revision of the general management plan for the site.

COST AND BUDGETARY CONSIDERATIONS

In compliance with paragraph 11(a) of Rule XXVI of the Standing Rules of the Senate, the following estimate of the cost of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 6, 1989.

Hon. J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached estimate of the outlay effects for S. 712, The Puerto Rico Status Referendum Act, as ordered reported by the

Senate Committee on Energy and Natural Resources on August 2, 1989. The bill would also have significant revenue effects. These revenue effects are being estimated by the Joint Committee on Taxation and are being provided under separate cover.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT D. REISCHAUER, *Director*.

Attachment:

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill number: S. 712.

2. Bill title: The Puerto Rico Status Referendum Act.

3. Bill status: As ordered reported by the Senate Committee on Energy and Natural Resources on August 2, 1989.

4. Bill purpose: To establish guidelines and provide resources for an island-wide referendum during the summer of 1991 in Puerto Rico. The referendum will allow Puerto Rico to choose between statehood, independence, and enhanced commonwealth status. In addition, the bill outlines the transition provisions for entitlement and federal programs as well as tax issues for each of the options.

5. Estimated Cost to the Federal Government: This estimate provides only spending estimates for S. 712. Revenue estimates are being developed separately by the Joint Committee on Taxation. The estimated costs to the federal government would be very different depending upon which status option—statehood, independence, or enhanced commonwealth—is chosen. The table below shows the total federal costs under each alternative.

[By fiscal years, in millions of dollars]

	1991	1992	1993	1994	1995
Statehood:					
Director spending:					
Budget authority	—	1,666	1,810	2,460	3,150
Estimated outlays	—	1,666	1,810	2,460	3,150
Amounts subject to appropriation action:					
Estimated authorization level	(1)	10	10	10	10
Estimated outlays	(1)	10	10	10	10
Total spending:					
Budget authority/Estimated authorization level	(1)	1,676	1,820	2,470	3,160
Estimated outlays	(1)	1,676	1,820	2,470	3,160
Independence:					
Total spending:					
Budget authority/Estimated authorization level	(1)	—200	—500	—800	—1,100
Estimated outlays	(1)	—200	—500	—800	—1,100
Enhanced Commonwealth Status:					
Direct spending:					
Budget authority	—	0	0	0	0
Estimated outlays	—	0	0	0	0
Amounts subject to appropriation action:					
Estimated authorization level	(1)	(1)	(1)	(1)	....
Estimated outlays	(1)	(1)	(1)	(1)	(1)
Total spending:					
Budget authority/Estimated authorization level	(1)	(1)	(1)	(1)	(1)
Estimated outlays	(1)	(1)	(1)	(1)	(1)

[1] Less than $5 million.

Basis of Estimate: For purposes of the estimate, CBO has assumed that the referendum would occur and be certified in the summer of 1991, and that procedures for implementing the certified status option would go into effect in fiscal year 1992. The bill has three status options that are discussed in turn. The cost of the referendum would be incurred regardless of the option chosen.

REFERENDUM

Although the bill does not state a specific authorization level, CBO estimates the cost of the referendum would be between $2.5 million and $4 million in fiscal year 1991.

S. 712 would require the Attorney General to provide for adequate monitoring of the referendum by U.S. Marshals. Based on information from the Department of Justice, CBO estimates that these monitoring activities would cost between $.5 million and $2 million in 1991, depending on how the Marshals Service implements this provision.

If they provide a minimal presence of on-call deputy marshals able to respond to disruptions at polling places, then costs would be toward the lower end of the range. If on the other hand, they create a greater presence by providing more marshals to travel to and monitor all 1,602 polling places during the election, then costs would be closer to the higher end of the range. For purposes of this estimate, we assumed that the primary function of the U.S. Marshals would be to insure law and order at polling places and not to insure against election fraud. We therefore did not estimate the costs that would be incurred to provide oversight and security of ballot boxes and machines.

S. 712 also would require the President to appoint a Referendum Information officer to distribute education information on the referendum. The bill authorizes the appropriation of funds to cover the expenses of the Information Officer. CBO assumed that the Information Officer would be appointed by October 1990 and would work through August of 1991. The estimate covers costs for salaries, overhead, printing, and postage. CBO estimates the cost of these activities would be $2 million in fiscal year 1991.

The costs of the referendum are included in the costs of each of the three state options.

STATEHOOD

If statehood is certified, Puerto Rico would be treated as any other state effective October 1, 1991. This option would entitle Puerto Rico to representation in Congress and full participation in federal entitlement programs. This provision would also provide for a commission to facilitate the transition to statehood.

Senators and Representatives. Beginning January 1992, Puerto Rico would be represented in Congress by two senators and six representatives. At the same time, the office of Puerto Rico's current delegate to the Congress—the Resident Commissioner—would no longer be necessary. The costs of the additional members would be similar to the costs associated with members of Congress from the states with population size similar to Puerto Rico and of similar distance from Washington, D.C. Such costs would total about $7 to

$10 million annually. The estimate for 1992 assumes the new members would be sworn in January 1992.

Commissions. S. 712 would require the creation of a seven person commission to examine the applicability of federal laws in Puerto Rico. The commission would be created within 60 days of confirmation of the election results (beginning of November 1991 at the latest) and would have to submit its report by January 1, 1995. CBO estimates the cost of these activities would be $1 million annually in fiscal years 1992–1994.

Entitlement Programs. While Puerto Rico is considered a state for many federal programs, it is not always treated identically to the rest of the 50 states. For example, federal funds available for AFDC and Medicaid are capped in Puerto Rico, and the Food Stamp program is administered as a block grant. Also, SSI is currently not available in Puerto Rico, but the Aid to the Aged, Blind and Disabled (AABD) program is. The estimates for the entitlement programs are complex and uncertain in a number of respects. The uncertainties include the benefit levels for each program, the number of participants in each program, the actual amount of time the transition to statehood would take, and the comparability of the program and population in Puerto Rico to the U.S.

Recent detailed data bases that display the characteristics of current program participants and permit estimates of potential participants are not available for Puerto Rico. This lack of data complicates the estimating process and increases the uncertainty of the estimates. Finally, many of the federal programs, in particular AFDC and Food Stamps, are sensitive to the condition of the economy, particularly the unemployment rate. If the Puerto Rican economy should change under statehood, the costs to the federal government for these programs could change significantly. For example, participation in the Food Stamp and AFDC programs would be higher, if the unemployment increased significantly.

Food Stamps. Extending food stamps to Puerto Rico is estimated to increase federal costs by $700 million annually in 1992–93 and $600 million annually in 1994–95. This estimate assumes a Food Stamp program cost of $1.7 billion in 1992, less $1.0 billion for the existing Nutrition Assistance Program. The $1.7 billion estimate assumes average monthly participation of 1.75 million persons, average monthly benefits of $77 per person, and administrative costs of $60 million. Participation is estimated to remain constant in 1992–1995. Benefits would increase annually due to cost-of-living adjustments, but the rise in average benefits would be partially offset by decreased Food Stamp benefits for households beginning to receive increased cash welfare, particularly Supplemental Security Income in 1994 and 1995.

These estimates are based on the operation of the Food Stamp program in Puerto Rico prior to July 1982. The 1.75 million participation estimate is based on the 1982 average of 1.81 million people, adjusted for the national decline in Food Stamp participation since then. The drop in participation is assumed to be half as large in Puerto Rico as in the rest of the United States, where participation fell from 20.4 million in 1982 to 18.7 million in 1988, and is estimated to remain at 18.7 milion in 1992.

The $77 monthly benefit estimate for 1992 assumes that under statehood the Puerto Rican Food Stamp program would follow national standards for maximum benefits and deductions, and then average benefits would be 17 percent larger than in the rest of the United States. Puerto Rican benefits were only 5 percent larger that national food stamp benefits in 1982. However, at that time the Puerto Rican Food Stamp program operated under a special set of lower maximum benefits and deductions.

Medicaid. The public health program in Puerto Rico currently covers approximately 2.1 million of the Island's 3.3 million persons. CBO assumes that the new program would attempt to cover a significant portion of the persons currently covered. Based on conversations with Island Medicaid staff, the Health Care Financing Administration (HCFA) regional office involved in the current Medicaid program, and previous published work on the Island's public health program, CBO assumed approximately 1.35 million participants annually. This estimate assumes that the health care system in Puerto Rico would respond to the new program by increasing the supply of services by fiscal year 1992. Also, Puerto Rico would receive $900 million in new federal funds and would be required to put up $184 million in matching monies, assuming the 83 percent match. This amount is considerably less than the $450 million the Commonweath is currently spending.

Medicare. This estimate is based on taking the price differential between the hospital rates paid in Puerto Rico and the U.S. in 1989 and inflating it with CBO Hospital Insurance program growth rates for years 1990–1995.

SSI. Puerto Ricans would become eligible for federal SSI January 1, 1994. The estimated increased cost over the current Aid to the Aged, Blind and Disabled (AABD) program is $600 million in 1994 and $900 million in 1995. The current AABD program costs approximately $16 million annually. The first full year estimate of $850 million in 1995 assumes average monthly participation of about 75,000 aged and 115,000 disabled (including blind) persons. Average benefits for the aged are about $260 a month and about $430 a month for the disabled. Estimated costs in 1994 are significantly lower because Puerto Ricans would not be eligible for the first three months of the fiscal year. Also, it is assumed that newly eligible participants would not move onto the SSI program immediately. Estimated administrative costs in 1994 of about $160 million are higher than in 1995 as a result of the large additional cost of processing initial claims. Estimated administrative costs for 1995 are about $S35 million.

The estimated costs for SSI benefit payments in Puerto Rico were based on a 1987 study by GAO "Welfare and Taxes: Extending Benefits and Taxes to Puerto Rico, Virgin Islands, Guam, and American Samoa." This study used 1980 census data on incomes in Puerto Rico to estimate the number of people who would be eligible for SSI in Puerto Rico. Because disabled people under the age of 65 are difficult to distinguish on the census only the number of eligible people aged 65 and over were estimated. Their estimated average monthly SSI benefit was approximately 20 percent higher than the average aged federal SSI benefit in 1979. To estimate the number of disabled eligibles we assumed the 1979 ratio of U.S. aged

SSI recipients to disabled recipients would be the same in Puerto Rico. The same ratio procedure was used for the disabled benefit relative to aged benefits. Following the GAO study, we assumed 43 percent of the estimated eligible population would have participated in 1979. This is the same estimated 43 percent SSI participation rate for aged recipients in the U.S. based on the 1980 census.

The estimated number of Puerto Rican participants was increased by the growth in CBO's baseline for aged and disabled categories relative to 1979 U.S. caseloads. Between 1979 and 1995 the U.S. aged caseload declines by about six percent and the blind and disabled caseload grows by 65 percent. Average benefits were increased in the same manner growing 145 percent for the aged and 160 percent of the disabled in the same period.

Administrative costs were based on SSA unit costs for workload items in the United States. Estimated costs in 1994 and 1995 reflect adjustments for October payments that get made in the previous fiscal year.

AFDC. Statehood for Puerto Rico would have a relatively small affect on federal spending in the AFDC program, as long as Puerto Rico did not raise its payment standards. CBO estimates that federal outlays would rise by $6 million in 1992 and $70 million in 1995, as a result of a higher federal match rate and a lifting of the spending cap. The federal match rate would rise from 75 percent under current law to 83 percent, increasing federal outlays by an estimated $6 million in 1992 and $10 million in 1995. Federal spending is subject to an $82 million cap under current law (including spending on AABD and on foster care and adoption assistance); lifting the cap would add nothing to federal outlays in 1992 but an estimated $60 million in 1995.

Federal outlays resulting from statehood would rise significantly from 1992 to later years because Puerto Rico will have to implement an AFDC-Unemployed Parent (UP) program October 1, 1992, as required by the Family Support Act of 1988 (Public Law 100–485). Based on CBO estimates, about 35,000 AFDC–UP families will participate and federal costs will amount to about $60 million a year, when the program is fully effective in fiscal year 1994 and later.

If Puerto Rico increased its AFDC payment standards, federal costs of statehood would be significantly higher. For example, if states were to put one-half of their savings from the increased federal match rate back into AFDC, federal outlays would rise by another $30 million in 1995. In its 1987 study, GAO estimated that federal outlays, as a result of statehood, would increse by $72 million a year, primarily from a doubling of AFDC payment standards. Whether Puerto Rico would raise its payment standards is uncertain. On the one hand, its standards are low and its sizable savings from expanded Medicaid coverage, along with the smaller savings in AFDC, could be used to pay for increased payment standards. On the other hand, uncertainties surrounding costs of the AFDC–UP program, increased benefits under the Nutrition Assistance Program with statehood, and concern over revenue losses under statehood would argue for caution in raising standards.

Foster Care. Extending the foster care program to Puerto Rico would cost an estimated $3 million annually, starting in 1992. This estimate assumes that 60 percent of the estimated 1,700 children in foster care in Puerto Rico would qualify for federal reimbursements under Title IV–E of the Social Security Act, that the current $100 monthly payment rate would be increased for inflation, and that the ratio of administrative to benefit costs would be the same as in the rest of the United States.

Earned Income Tax Credit (EITC). On January 1, 1994 Puerto Rico would be subject to U.S. tax laws and as a result some may be eligible for the Earned Income Tax Credit. The estimated cost of the rebatable portion of the EITC in Puerto Rico would be $10 million in 1994 and $300 million in 1995. Since most of the EITC is paid in the form of tax refunds, the cost in 1994 is very small. Most of the cost of the EITC for calendar year 1994 fall in fiscal year 1995.

The Census Bureau has published tables showing families with children under age 18 by 1979 income level for Puerto Rico and the United States. Under current law, families with children and earnings and other income of $19,850 or less are eligible for EITC. After making adjustments for income and population growth between 1979 and 1989, there would be approximately 334,000 families eligible in Puerto Rico in 1989. This is approximately 5 percent of the U.S. families eligible in 1989. Assuming the average benefit is equal to the U.S. average benefit, the cost to the federal government would increase by 5 percent above current baseline estimates.

ESTIMATED FEDERAL OUTLAYS UNDER STATEHOOD

[By fiscal year in millions of dollars]

	1992	1993	1994	1995
Estimated outlays:				
Food stamps	700	700	600	600
Medicaid	900	1,000	1,100	1,200
Medicare	60	70	80	80
SSI	0	0	600	900
AFDC	6	40	70	70
Foster care	(1)	(1)	(1)	(1)
Earned income tax credit			10	300
Total spending	1,666	1,810	2,460	3,150

[1] Less than $5 million.

INDEPENDENCE

If independence is certified, Puerto Rico would become an independent republic upon certification. This option would provide for a Joint Transition Commission to facilitate a smooth and equitable transfer of power.

Also under independence, the bill would provide for the continuation of federal programs for a period of time.

Commissions. S. 712 would establish a Joint Transition Commission which would oversee the transfer of power from the United States government to the newly established Puerto Rican government. It is anticipated that the Commission would need to establish a number of task forces to handle various aspects of the transition. The costs of this Commission would be borne evenly between the

U.S. and Puerto Rican governments. CBO estimates the cost to the federal government would be between $2 and $3 million annually beginning in fiscal year 1992.

Federal Programs. S. 712 would provide for the continuation of all federal programs until the end of the fiscal year in which independence is proclaimed. At such time, a grant shall be paid annually to the Republic of Puerto Rico in an amount equal to the total amount of grants, programs, and services provided by the federal government in such fiscal year through the ninth year following certification of the referendum.

In addition, the bill would allow Puerto Rico to request renewal or continuation of any existing contractual obligations, provided that Puerto Rico agrees that the cost of such renewal or continuation shall be deducted from the annual grant. Also, all federal pension programs shall continue as provided by U.S. law.

CBO estimates the amount of federal expenditures in Puerto Rico at the end of fiscal year 1991 would be 6.9 billion. This estimate takes the $6.2 billion Puerto Rico received in federal funds in 1988 less $200 million for AFDC, AABD, and Medicaid and adjusts for inflation. The amount for AFDC, AABD and Medicaid is capped. The amount of the grant would remain constant through 1995. The savings to the federal government for fiscal years 1992–1992 would be the difference between the 1991 grant amount and the amount of federal expenditures adjusted for inflation through 1995. The savings would be $0.2, $0.5, $0.8 and $1.1 billion in fiscal years 1992, 1993, 1994, and 1995 respectively. The breakdown between direct spending and authorization levels is difficult to determine. The bill is unclear if the grant would be an entitlement or not.

ENHANCED COMMONWEALTH STATUS

If enhanced commonwealth is certified, the relationship between Puerto Rico and the United States remains essentially the same. Under this option, the bill would establish a Caribbean Basin passport office and a Senate Liaison office. The bill also would provide for the consolidation of federal grant-in-aid programs.

Passport Office. S. 712 would require the federal government to establish a passport office in Puerto Rico for the Caribbean Basin. The State Department estimates that the passport office will receive 50,000 applications per year. The cost estimate includes a one time $2.5 million cost to set-up, equip, and train office staff for the office. The annual operating expenses would be about $1 million annually. This estimates assumes 17 full-time federal employees.

Liaison Office. S. 712 would establish an Office of Senate Liaison for the Commonwealth of Puerto Rico to facilitate communications between the U.S. Senate and the Commonwealth. The bill would authorize an annual appropriation of $600,000 for salaries and $56,000 for office expenses. This estimate assumes that the Senate Liaison would be appointed by January 1992. CBO assumes that the entire appropriation will be spent in each year.

Federal Programs. If enhanced commonwealth status is elected, section 501 of Public Law 95–134 would apply to Puerto Rico. Section 501 allows a government agency if it so chooses to consolidate any or all grants to insular areas, i.e., Puerto Rico, for any fiscal year(s). The grant shall not be less than the sum of all grants which the area is otherwise entitled, and the funds shall be expended in the furtherance of programs and purposes authorized, but the areas shall determine the proportion of the funds granted which shall be allocated to such programs and purposes. CBO estimates there will be no additional costs for these programs with enactment of this bill.

The CBO assumes that all authorizations are fully appropriated at the beginning of each fiscal year. Outlays are estimated using spendout rates computed by CBO on the basis of recent program data.

These estimates have been developed with the assistance of the General Accounting Office and the Congressional Research Service. Much of the work in this estimate is based on a report the General Accounting Office published in 1987—Welfare and Taxes: Extending Benefits and Taxes to Puerto Rico, Virgin Islands, Guam, and the American Samoa. In addition, the General Accounting Office made available the back up materials developed while preparing the report. These materials were helpful in preparing these estimates. The Congressional Research Service also provided significant assistance in developing the Earned Income Tax Credit estimate and background information on federal programs in Puerto Rico. Finally, the government of Puerto Rico has provided valuable information on the possible costs of S. 712.

6. Estimated cost to State and and local governments: The costs to state and local governments would vary considerably depending upon which status option is certified. Under Enhanced Commonwealth, there would be essentially no change; therefore, CBO estimates there would be no cost to Puerto Rico. Under Independence, there would be savings to the federal government as indicated above. However, it is unclear to what extent Puerto Rico would pick up the difference in program spending. Under Statehood, Puerto Rico would incur significant savings in some entitlement programs. The AABD program would be replaced with the federally funded SSI program, and Puerto Rico would save $5 million annually. Currently, Puerto Rico spends $450 million on health care, and under Statehood and the extension of Medicaid, Puerto Rico would spend $184 million on health care for a potential net savings of $266 million in benefit payments in fiscal year 1992. The potential savings would be $245 million, $225 million, and $204 million in 1993, 1994, and 1995. The savings for the Medicaid program may be less due to the potential expansion of the Medicaid program in Puerto Rico. Puerto Rico would save $6 million, $40 million, $70 million and $70 million in 1992, 1993, 1994 and 1995 respectively on the AFDC program. These savings would occur because of an increased federal match rate and eliminated cap on federal funds.

Extending the Food Stamp program to Puerto Rico would increase administrative costs to the island, due to increased costs for eligibility certification, work programs and quality control activities. The net increase would be approximately $30 million with higher costs expected if Puerto Rico opts to distribute coupons rather than cash.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Richard Curley, Alan Fairbank, Terri Gullo, Jim Hearn, Lori Housman, Julie Isaacs, Cory Leach, Marta Morgan, Don Muse, and Janice Peskin.

10. Estimated approved by: C.G. Nuckols for James L. Blum, Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred on the passage of S. 712.

It is the Committee's view that the bill is not a regulatory measure in the sense of imposing Government-established standards on private individuals or businesses.

No personal information would be collected in the implementation of S. 712. Therefore, there would be no impact on personal privacy.

The bill would cause an increase in government paperwork depending on the status option approved and implemented in accordance with the referendum results.

If statehood is implemented there would be transitional paperwork increases in connection with the Commission on Federal Laws established under Section 208(b), with the review and report on Federal lands under Section 204(c), and in connection with the economic adjustment provisions of Section 213.

If independence is implemented there would be paperwork increases during the transitional period, particularly in connection with the work of the Joint Transition Commission and its various Task Forces. Over time, however, independence would significantly reduce Federal paperwork with respect to the Government of Puerto Rico.

If Title III is implemented as a result of the referendum, then there would be paperwork increases in connection with the Federal law and regulatory review procedures set forth in Sections 403 and 404; the establishment of a Senate Liaison Office under section 409; and in connection with the Commission and reports regarding Federal properties provided for in Sections 412 and 413.

EXECUTIVE COMMUNICATIONS

The Administration presented testimony in 3 days of hearings before the Committee and submitted additional comments, and responses to questions from the Committee. These communications are included in the record of the hearings held on July 15, 17 and 18.

MINORITY VIEWS OF SENATOR WALLOP

I remain concerned that a number of issues were never satisfactorily addressed during the Committee's deliberations on the bill. Several of these relate to fiscal matters which the Finance Committee will consider. We can hope the Finance Committee will carefully focus on these issues.

Revenue neutrality. During the mark-up, a number of Members of this Committee agreed that the bill should be revenue-neutral. The Committee failed, however, to define the time frame in which revenue-neturality should be measured. More importantly, a number of Members expressed serious concern about the financial estimates upon which the Committee relied in fashioning the transition periods for both the statehood and independence status options, and the effects those estimates have on the claim of revenue-neutrality.

Imbalance. Under the bill, if Puerto Rico becomes a state, the tax credit provided by section 936 of the Internal Revenue Code would continue in effect for two years after Puerto Rico's admission to the Union, and would be phased out gradually for a period of four years after that. The current exemption from federal personal and corporate taxes would continue in effect for two years after Puerto Rico became a state; for two years thereafter, all revenue collected would be rebated to the Government of Puerto Rico. Revenue from excise taxes would be rebated, or "covered over," until at least 1999.

At the same time, Puerto Rico would become immediately eligible for full participation in federal benefit programs, including Medicaid, Aid to Families with Dependent Children, and Food Stamps; introduction of Supplemental Security Income program ("SSI") would be delayed for two years.

It is my belief that, as presently structured, the bill is unbalanced because it front-loads the benefits under the statehood option. It misleads the people of Puerto Rico by inducing beneficiaries of various programs to vote for statehood in order to obtain immediate increases in welfare benefits—even though within a few years the loss of the special tax programs could mean a massive loss of jobs and greater impoverishment of the Island.

Shift of Statehood date. The shift of the effective date of statehood from November 1993 to January 1992 dramatically increases the front-loading of federal benefits, by introducing full benefits (except SSI) almost two years earlier than under the original Johnston/McClure substitute. This shift has a significant negative impact on the U.S. Treasury, and was never adequately explained or justified. It should be—before the Senate votes.

Because of the importance of the status issue to the people of Puerto Rico, and the implications of the fundamental choices involved, I believe it is irresponsible that one status option be weighted in favor over another. Moreover, it is incumbent upon the Congress to provide the people of Puerto Rico with a realistic picture of the long-term costs and benefits of each status option. The Committee bill does not accomplish these two essential objectives.

MALCOLM WALLOP.

MINORITY VIEWS OF SENATOR CONRAD

I voted against S. 712 largely because I am concerned about the fiscal impacts of the bill. Specifically, I do not believe that the Committee had sufficient information to determine what impact the statehood transition proposals will have on the federal treasury. The budgetary implications of this measure are large, and the federal budget deficit is too big for the Committee to rely upon imprecise numbers.

I am especially concerned that the Administration has been largely unwilling to provide detailed data on the impacts of statehood. Assistant Treasury Secretary Kenneth Gideon testified that the Administration believes that the "selection among the possible options should be a choice made by the people of Puerto Rico unaffected by the bias which specific costs and benefits could bring to the process." In other words, the Administration apparently believes that Congress should blindfold itself when it votes on this measure.

Too many people have been wearing too many blindfolds for too long in Washington. That's why we have a fiscal crisis on our hands.

Our national debt is $2.8 trillion. We have tripled it in the last 9 years. The trade deficit has increased fourfold and we have transformed America from the largest creditor nation into the largest debtor nation in the historical equivalent of a blink of the eye.

We cannot keep on like this. We cannot afford to make important fiscal decisions without regard for their potential impacts. If the statehood transitions benefits of this bill are more than what is necessary to accomplish the task, then I think Congress, and the people of Puerto Rico, are entitled to know.

The Committee heard testimony that the net cost of the federal treasury could be over $2 billion in 1994 and 1995, and between $596 million and $691 million for each year thereafter until the year 2000. Some of those costs can be attributed to lower tax revenues, but most of the costs probably can be attributed to greater entitlement payments to the island. The GAO presented a comprehensive analysis of the demographics of Puerto Rico, and the GAO data lends support to the testimony:

> The population of Puerto Rico is about 3.5 million people. Its per capita income is less than half that of the lowest state. In 1988, for example, Puerto Rico's per capita personal income was $5,157, which was 47 percent of Mississippi's $10,992, the state with the lowest per capita income. (The Congressional Research Service has compared Puerto Rico's per capita income to the per capita incomes of Alaska and Hawaii at the time of admission to the Union (all figures expressed in 1989 dollars)):

Alaska (1959)	$9,877
Hawaii (1959)	8,562

United States (1959)	8,882
Puerto Rico (1987)	5,309
United States (1987)	16,931

Because of Puerto Rico's extremely low per capita income, about 43 percent of the Puerto Rican tax returns used in GAO's analysis in 1979 would have had no federal tax liability. In fact, about 70 percent of these Puerto Rican returns could have been eligible for an estimated total of $36 million in earned income credits in 1979.

"Chronic high poverty rates persist in Puerto Rico despite an improving economy." In 1979, the Census Bureau reported 62.4 percent of Puerto Rico's population had incomes below the federal poverty level, compared with 12.4 percent of the US population.

Transfer payments to individuals, such as earned pensions and welfare and social security entitlements, comprised 21 percent of Puerto Rico's personal income in 1988. In the States, transfers to individuals were about 13.7 percent of personal income in 1988.

About 21 percent of the island's 1988 personal income and 31 percent of 1987 commonwealth government annual receipts came from federal intergovernmental grant-in-aid programs.

"Island unemployment continues to be two to three items greater than the national average and incomes remain relatively low." In calendar year 1988, the unemployment rate was 15.0 percent compared with the US average of 5.5 percent.

The island's illiteracy rate was about 11 percent in 1988. In the US as a whole, the illiteracy rate has been estimated at 1 percent.

Elementary and secondary educational expenditures are estimated at nearly $1,400 per pupil in FY 1988 in Puerto Rico. In FY 1985, the lowest state expenditure was $1,594 per pupil.

The GAO also examined the applicability of federal laws to Puerto Rico in seven areas. It found that, generally, the laws apply to Puerto Rico in the same manner as they do to the states. It also found, however, that "the major exceptions are income support and health care programs and income taxes." In many cases payments to Puerto Rico for income support and health care are limited. For example:

Total expenditures for Adult Assistance, Aid to Families with Dependent Children (AFDC), and foster care is capped at $82 million for FY 1989 and thereafter. (the average monthly adult assistance payment is $32 and the US average under Supplemental Security Income is $362 a month.)

Puerto Rico is excluded from participation in the Food Stamp program. It has a separate Nutrition Assistance program that was capped at $825 million per year in 1981. In 1988, 43.5 percent of the population was eligible for the Nutrition Assistance program.

Federal funding for Medicaid in Puerto Rico in capped at $79 million for FY 1990.

Puerto Rico is not subject to federal individual or corporate income tax laws.

Finally, GAO examined how 20 federal programs applied to Puerto Rico. GAO reported that "although treatment as a state would have had minimal or unquantifiable effect under 14 of [the] programs, it would have brought substantial additional amounts under the remaining six." Puerto Rico would have received about $836 million in additional federal aid if it had been a state in 1984.

CBO estimates that outlays for entitlements and other mandatory spending in the US will jump from one-half a trillion dollars in 1988 to three-quarters of a trillion dollars in 1994. The additional costs associated with statehood for Puerto Rico could be substantial.

The methodology and underlying assumptions in the transitional economic analyses available to the Committee are questionable. I believe that the transitional costs likely will be much greater than that presented at our hearings, and as this measure moves on to the Finance Committee for further hearings, I hope that that panel will make every effort to obtain more accurate numbers on the fiscal impacts of this bill.

KENT CONRAD.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law which may be made by the bill S. 712, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman). The following changes would be made in existing law in the event Commonwealth status obtains a majority vote in the referendum held pursuant to title I of this Act.

ACT OF APRIL 12, 1900

CHAPTER 191

AN ACT Temporily to provide revenues and a civil government for Porto Rico, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of this Act shall apply to the island of Porto Rico and to the adjacent islands and waters of the islands lying east of the seventy-fourth meridian of longitude west of Greenwich, which were ceded to the United States by the Government of Spain by treaty entered into on the tenth day of December, eighteen hundred and ninety-eight; and the name Porto Rico, as used in this Act, shall be held to include not only the island of that name, but all the adjacent islands as aforesaid.

SEC. 2. That on and after the passage of this Act the same tariffs, customs, and duties shall be levied, collected, and paid upon all articles imported into Porto Rico from ports other than those of the United States which are requried by law to tbe collected upon articles imported into the United States from foreign countries: *Provided,* That on all coffee in the bean or ground imported into Porto Rico there shall be levied and collected a duty of five cents per pound, any law or part of law to the contrary notwithstanding: *And provided further,* That all Spanish scientific, literary, and artistic works, not subversive of public order in Porto Rico, shall be admitted free of duty into Porto Rico for a period of ten years, reckoning from the eleventh day of April, eighteen hundred and ninety-nine, as provided in said treaty of peace between the United States and Spain: *And provided further,* That all books and pamphlets printed in the English language shall be admitted into Porto Rico free of duty when imported from the United States.

(1) As strictly limited by the international obligations of the United States, the Commonwealth of Puerto Rico is authorized to impose tariff duties on foreign origin products imported into Puerto Rico from outside the customs territory of the United States. Such tariff duties may be in addition to the general

tariff duties imposed by the United States if such general tariff duties are not subject to United States international obligations, or in cases where the general duty is applied at a rate below that which is subject to United States international obligations. In the latter case, the combined duties shall not exceed the level for which a United States international obligation exists.

* * * * * * *

PUBLIC LAW 95-134

To authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * * * *

TITLE V

SEC. 501. In order to minimize the burden caused by existing application and reporting procedures for certain grant-in-aid programs available to the [Virgin Islands,] *Virgin Islands, Puerto Rico,* Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Government of the Northern Mariana Islands (hereafter referred to as "Insular Areas") it is hereby declared to be the policy of the Congress that:

(a) Notwithstanding any provision of law to the contrary, any department or agency of the Governments of the United States which administers any Act of Congress which specifically provides for making grants to any Insular Area under which payment received may be used by such Insular Area only for certain specified purposes (other than direct payments to classes of individuals) may, acting through appropriate administrative authorities of such department or agency, consolidate any or all grants made to such area for any fiscal year or years.

(b) Any consolidated grant for any insular area shall not be less than the sum of all grants which such area would otherwise be entitled to receive for such year.

(c) The funds received under a consolidated grant shall be expended in furtherance of the programs and purposes authorized for any of the grants which are being consolidated, which are authorized under any of the Acts administered by the department or agency making the grant, and which would be applicable to grants for such programs and purposes in the absence of the consolidation, but the Insular Areas shall determine the proportion of the funds granted which shall be allocated to such programs and purposes.

(d) Each department or agency making grants-in-aid shall, by regulations published in the Federal Register, provide the method by which any Insular Area may submit (i) a single application for a consolidated grant for any fiscal year period, but not more than one such application for a consolidated grant shall be required by any department or agency unless notice of such requirement is transmitted to the appropriate committees of the United States Congress together with a complete explanation of the necessity for requiring such additional applications and (ii) a single report to such department or agency with respect to each such consolidated grant: *Provided,* That nothing in this paragraph shall preclude such department or agency from providing adequate procedures for accounting, auditing, evaluating, and reviewing any programs or activities receiving benefits from any consolidated grant. The administering authority of any department or agency, in its discretion, may (i) waive any requirement for matching funds otherwise required by law to be provided by the Insular Area involved and (ii) waive the requirement that any Insular Area submit an application or report in writing with repect to any consolidated grant.

PUBLIC LAW 100-418

To enhance the competitiveness of American industry, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Omnibus Trade and Competitiveness Act of 1988".

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SEC. 1102. TRADE AGREEMENT NEGOTIATING AUTHORITY.

* * * * * * *

"(e)(1) During the negotiation of any trade agreement under subsections (a), (b), and (c), it is the sense of the Senate that the President should consider the effects of any proposed tariff rate or any proposed changes in nontariff measures on the economy of Puerto Rico and should consult with the Governor of the Commonwealth of Puerto Rico concerning such potential effects before concluding international trade negotiations.

(2) It is the sense of the Senate that the President should seek to obtain favorable treatment from foreign countries for exports from the Commonwealth of Puerto Rico and should take steps to encourage other countries to consider Puerto Rico as a developing area for purposes of their respective Generalized Systems of Trade Preferences schemes, and any such regional systems of trade preferences.

○